

**COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF JANUARY 8, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, January 8, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Bill Coburn, Marty O’Dea, Barb Mattson, Tom Brady, Daryl Johnson

ABSENT: None

Moved-Seconded (Coburn, O’Dea) motion to approve minutes of December 4, 2008. Motion Carried.

Moved-Seconded (Brady-Coburn) motion to approve the agenda with the following correction: The legal description of property for CUP #361, Timothy Hauck, should show Section 10, T7N, R2E. Motion Carried.

Election of Officers: Moved-Seconded (Brady-Mickelson) motion to reappoint the present officers for 2009. (Chair-Rick Tysdal, Vice-Chair-Bill Coburn, Secretary-Craig Mickelson.) Motion Carried

Declaration of Conflicts of Interest: Tysdal: Plat #5 owned by Gilded Mountain LLC. Brady: Plat #5 owned by Gilded Mountain LLC, and Recommendation Meeting for Variance #122 for Loup Land Company.

**PLATS**

**1. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Ronald Brandt/Ponderosa Land Surveys, LLC

**Action Required:** Approval/Denial

**Legal Description:** Plat of Brandt Tract a portion of Dublin Lode MS 1678, in Section 17, T5N, R3E (legal shortened)

**Location:** East of Maitland Road

**Purpose:** New Lot

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (Mickelson-Mattson) motion to take plat from the table. Motion Carried.

Vogt explained when this plat was originally presented, the board had questions that could not be answered at that time. She stated this property is governed by the original covenants and fire plan put on it by Maitland Partners, and more should not be required. The fire plan was addressed with the intension to clean up the entire acreage, and water availability addressed by a pond, fire hydrants, and City water to the property line and a well.

Moved-Seconded (Brady-Mickelson) motion to approve Preliminary Plat. Motion Carried

Moved-Seconded (Mickelson-Mattson) motion to approve the Final Plat. Motion Carried.

**2. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Cattel/Ponderosa Land Surveys, LLC

**Action Required:** Approval/Denial

**Legal Description:** Plat of Tracts B1, B2 & B3 of Lot B, Frosty Meadows Subdivision in Section 25, T4N, R2E

**Location:** South of HWY 14A on Frosty Meadows Road

**Purpose:** New Lots

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this property is adjacent to the Lead Golf Course, with primary access off Hwy 14A. Also discussed was the length of the Cul-De-Sac and emergency access through the golf course.

Moved-Seconded (Brady-Mickelson) motion to approve the Preliminary Plat with the Cul-De-Sac length shown, because of the unique circumstance of the long dead end road, but providing emergency access only through the golf course. Motion Carried.

Moved-Seconded (Brady-Mickelson) motion to approve the Final Plat with the Cul-De-Sac length shown, because of the unique circumstance of the long dead end road, but providing emergency access only through the golf course. Motion Carried.

**3. FINAL PLAT**

**Owner/Representative:** Apple Springs Inc/CETEC Engineering

**Action Required:** Approval/Denial

**Legal Description:** Plat of Lots 6 & 7 Block 13, Apple Springs Sub, Section 11, T5N, R4E, (legal shortened)

**Location:** Boulder Canyon

**Purpose:** New Lots

**Zoning:** SRD

**Conflicts of Interest:** None

Moved-Seconded (Mickelson-Coburn) motion to approve Final Plat. Motion Carried.

**4. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Apple Springs Inc/CETEC Engineering

**Action Required:** Approval/Denial

**Legal Description:** Plat of Clubhouse Lot, Apple Springs Sub, Section 11, T5N, R4E, (legal shortened)

**Location:** Boulder Canyon

**Purpose:** New Lot

**Zoning:** SRD

**Conflicts of Interest:** None

Moved-Seconded (Coburn-O'Dea) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Mickelson-Coburn) motion to approve Final Plat. Motion Carried.

**5. FINAL PLAT**

**Owner/Representative:** Gilded Mt, LLC/Four Front Design

**Action Required:** Approval/Denial

**Legal Description:** Plat of Lot 37R, Gilded Mountain Subdivision, Section 5 & 6, T4N, R3E (legal shortened)

**Location:** South of Lead

**Purpose:** Re-plat of lot 37

**Zoning:** SRD

**Conflicts of Interest:** Tysdal, Brady

Tysdal and Brady abstained from vote and discussion and Tysdal continued to run the meeting with no objection.

Vogt explained this plat makes a minor lot line correction of original Lot 37.

Moved-Seconded (Coburn Mickelson) motion to approve Final Plat. Aye: 5, Abstain: Tysdal, Brady. Motion Carried.

## **PUBLIC HEARINGS AND INFORMATIONAL MEETINGS**

1. **INFORMATIONAL MEETING-CHANGE TO CHAPTER 7, ARTICLE 17 Development Proposal and Mitigation Requirements of the Lawrence County Subdivision Regulations**  
**Owner/Representative:** Amber Vogt/Bruce Outka  
**Action Required:** Discussion/Set Public Hearing

Vogt explained changes made to the original draft, and read the proposal. She stated changes were needed to this portion of the Subdivision Regulations to ease implementation. It now references the previously adopted Lawrence County Community Wildfire Protection Plan. Discussion also pertained to continuing maintenance and what provisions should be required in covenants. A public hearing was set for the February 5, 2009 Planning and Zoning meeting.

2. **PUBLIC HEARING- ORD 08-08 Addition of Concentrated Animal Feeding Operation (CAFO) Ordinances**  
**Owner/Representative:** Amber Vogt/Bruce Outka  
**Action Required:** Discussion/Approval/Denial  
**Purpose: To adopt a new Ordinance related to Concentrated Animal Feeding Operations (CAFO)**

The above hearing took place at the Deadwood City Hall meeting room to allow seating for all interested parties.

Vogt stated the County has been working on updates to ordinances for approximately one year. This proposal was presented to obtain public input. She acknowledged the document being heard today, needs reworked, and it is her staff recommendation to deny this document as it presently reads. Letters have been received from Ag United, Edgar and Carole Kellem, and McGuigan Inc (email). The Lawrence County Ag Committee prepared a proposal to be considered. Her recommendation is to reject ORD #08-08 as presented, and to resubmit an ordinance from a combination of the Ag Committee's proposal, the County's proposal, and other responses and suggestions.

**PROPONENTS:** None

OPPONENTS: Eric Jennings, Chairman of the Lawrence County Ag Committee, explained how they arrived at the document they presented. He also presented three letters of support for their draft ordinance from the Spearfish Livestock Association, South Dakota Cattlemen's Association, and the South Dakota Farm Bureau.

Vogt suggested this procedure be changed to a public meeting as apposed to continuing this hearing.

Gary Marousek stated the document being considered at this hearing is unmanageable, unworkable and intrusive. He stated the State and Feds should be the ones to handle the regulations. Tysdal responded the State requires the County to regulate, by Conditional Use Permit, a confinement of over 1000 head. Vogt corrected that statement as the State does not require such a permit, but the County requires one for over 1000 head. Diane Miller stated the State requires a State permit for over 1000 head. Vogt continued that she interpreted the regulation as if the County required a CUP, the State would require the applicant to obtain that permit before a State permit is issued. Miller stated that other CAFO or Ag operations are in existence, and the State requires all comply with Federal and State Environmental laws. Complaints can and have been filed and addressed in Lawrence County.

When asked about procedure, Vogt suggested the Board could Table the decision on the Ordinance 08-08, requiring a timely decision, or deny the ordinance, and start over. The Board continued with this Public Hearing process.

PROPOSERS: None

OPPONENTS: None

#### CLOSE PUBLIC HEARING

Moved-Seconded (Mattson-Coburn) motion to deny Ordinance 08-08. After the following discussion, the vote was taken and the Motion Carried.

Brady asked for a Red-Line version of the Ag committee's proposal. He questioned the suggestion that there be no regulation of confinement of less than 1000 head. He stated a need for not only a definition of what a CAFO is, but also what it is not. Marousek asked what the County is afraid of, leaving the regulating to the State and Feds. Brady answered from his perspective, the EPA and DENR are concerned about environmental issues, where Lawrence County is concerned those issues, it must also consider land use issues, such as roads, bridges, development, and competing uses. The County needs to protect and promote Ag use in appropriate areas, and prevent it in areas not appropriate. He stated the County's concern is what local impacts may occur. Dan Schenk discussed present wording in the Zoning Ordinance regarding A-1 and A-1 Zoning Districts. Ellen Reddick asked for clarification of parts of the Ordinance. Tysdal stated the request for input was for ideas to work on, not what was wrong with the document 08-08. Johnson stated he thinks the Board feels the same as the audience on Ord. 08-08, and the Board is trying to come up with a document that allows Ag use, but sets out protective provisions. Travis Schenk recommended the Board discard Ord 08-08 and adopt the proposal presented by the Ag Committee. Diane Miller stated that traditional cow/calf operations may not be feasible in the future for several reasons. She also has concern for development infringing on Ag operations. Jeff Sleep stated he hopes Planning & Zoning allows flexibility for future Ag uses. A group consisting of the Ag Committee and Brady, Coburn and O'Dea will work on a proposal to be brought back to the Board for consideration.

3. **PUBLIC HEARING- CUP #362-Impervious Energy Systems LLC-Wind Energy System**  
**Owner/Representative:** Charles Brown  
**Action Required:** Approval/Denial  
**Legal Description:** Lot 5, Section 1, T5N, R3E.  
**Location:** North of Deadwood  
**Purpose:** 2 -Wind Energy Systems  
**Zoning:** PF  
**Conflict of Interest:** None

Vogt presented the staff report, recommending approval, and explaining the location of the property and description of the request for two 74' towers with 50' rotor diameter, on a 43+- acre parcel adjacent to the parcel where his house is located. He presently has a CUP for one WES for his personal use. She explained the list of conditions were a product of the proposed Ordinance 08-06 Wind Energy Systems. This County Commission has since created a subcommittee to rework the proposal, including conditions required. She recommends deleting some of the original conditions and proposes a replacement with wording to include a provision that the applicant would have to meet the regulations implemented in a future Wind Energy System Ordinance. Brown stated he agreed to meeting requirements put in place by a new ordinance. Outka stated it appears Brown's proposal meets the strictest guidelines that may be imposed, and it seems unlikely that the eventual ordinance would be more strict. Brown stated he made certain changes to his original proposal to meet the strict proposed regulations. Brown explained the two towers are identical to the one next to his house, except electrically they are 3-phase where the present one is 1-phase, and the two will be 65 kw, a slight increase over the present one. Vogt stated a letter of protest was received from an adjacent property owner, Rex & Shawn Gulickson, who were unable to attend this hearing.

PROPOSERS: None

OPPOSERS: Tim Becker, representing Tom Lien, owner of property to the north, voiced objection concerning aesthetics, which is stated to be a consideration under the proposed ordinance. He stated the current WEC next to Brown's home is visible from the Lien property, and does not know if the two proposed will be visible from the cabin or property.

Brown stated proper maintenance will be performed. They will be kept in good repair.

PROPOSERS: Dan Schenk stated he heard the opposers use the visual argument and has real issues with the right of a person to use his property verses the right of another individual to look at the property. When one person owns a piece of property they own that piece of property, not the neighbor's property, but they want to control use just because they don't want to see it. He supports allowing this use.

OPPOSERS: None

CLOSE PUBLIC HEARING

Board discussion regarded definitions of Parcel and Site. Vogt suggested proposed conditions relating directly to the proposed ordinance, be struck and a condition added to read that Brown must meet whatever may be required with a new WES ordinance. Also discussed were wind channels and logging, and the definitions and future control intention of both small and large

wind energy systems. Brown requested Brady recuse himself from the vote because of his relationship with Mr. Gulickson. Outka stated he does not see where there is a technical conflict and Brady refused the request.

Moved-Seconded (O'Dea-Coburn) motion to recommend approval of CUP #362 with the staff recommendation and conditions as presented. Aye: 6, Nay: Brady. Motion Carried.

4. **PUBLIC HEARING- CUP #361-Timothy Hauck-2-Wind Energy Conversion Systems—  
TABLED AT August 14, 2008 Meeting**  
**Owner/Representative:** Timothy Hauck  
**Action Required:** Approval/Denial  
**Legal Description:** 74.8 acres in Section 10, T7N, R2E.(legal shortened)  
**Location:** North of Spearfish  
**Purpose:** 2- Wind Energy Systems  
**Zoning:** A-1  
**Conflict of Interest:** None

Moved-Seconded (Mickelson-O'Dea) motion to take from the table, CUP #361. Motion Carried.

Vogt reviewed background of this request for one tower providing power for his home and recommends approval with conditions. His original application included a 15 foot tower, however it is used only to provide power for a water pump and Christmas lights, and should be considered ornamental.

PROPOSERS: None

OPPOSERS: None

PROPOSERS: None

OPPOSERS: None

CLOSE PUBLIC HEARING

Moved-Seconded (Mickelson-Mattson) motion to recommend approval of CUP #361. Motion Carried.

5. **RECOMMENDATION MEETING-VAR #122- Loup Land Company**  
**Owner/Representative:** Daphne Loup/NJS Engineering  
**Action Required:** Recommendation to County Commissioners  
**Legal Description:** NW1/4NW1/4, Section 35, T7N, R2E, NE1/4NE1/4, Section 34, T7N, R2E, SE1/4NE1/4, Section 34, T7N, R2E. (112+ acres)  
**Location:** Loup Subdivision North of Spearfish, on Kerwin Lane  
**Purpose:** 10' variance to 35' height restriction for a Water Storage Tank.  
**Zoning:** RR  
**Conflict of Interest:** Brady

Brady abstained from discussion and vote.

Vogt explained the City of Spearfish contacted the office regarding a water tower built without a building permit. The property is in the Spearfish building permit jurisdiction, but must meet

County requirements. She was told the structure is taller than the 35 foot height limit. Allen Drewes, representing NJS Engineering, explained the tower is 40 feet tall to enable flow needed without a booster pump. An attached ladder adds an additional 5 feet to the height, totaling the 10 foot variance request.

Moved-Seconded (Mickelson-O'Dea) motion to recommend approval of VAR #122. O'Dea stated typically a height restriction keeps buildings from being taller than a fire department can handle. This being a water tower, there is nothing to catch on fire, and this does not cause a safety issue. Motion Carried.

6. **RECOMMENDATION MEETING-VAR #123- Dan Engebretson**  
**Owner/Representative:** Dan Engebretson  
**Action Required:** Recommendation to County Commissioners  
**Legal Description:** Lot 15 of Engelwood Acres, Section 16, T4N, R3E.  
**Location:** Engelwood  
**Purpose:** 15' variance to 25' setback for a shed  
**Zoning:** PF  
**Conflict of Interest:** None

Vogt provided pictures of the property and stated a neighbor expressed concern for this shed being placed in the setback. She presented the staff report recommending approval because of topography. She stated Engebretson also considered the placement of the shed to protect the well head from the weather.

Moved-Seconded (Brady-Mickelson) Due to the existing encroachment that would be Grandfathered, and the insignificant aspects of this structure and the practicality of what it is, motion to recommend approval of VAR #123. Aye: 6, Nay: O'Dea. Motion Carried.

Motion to adjourn (Brady) at 4:35pm. Motion Carried.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF FEBRUARY 5, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, February 5, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Bill Coburn, Marty O’Dea, Daryl Johnson

ABSENT: Barb Mattson, Tom Brady

Moved-Seconded (Mickelson-Coburn) motion to approve minutes of January 8, 2009 with the correction of the vote on VAR #123, Dan Engebretson, as follows: Aye: 6, Nay: O’Dea. Aye: 5, Absent: Brady and Mattson. Motion Carried.

Moved-Seconded (Coburn-Mickelson) motion to approve the agenda with the addition of discussion of platting remainders during consideration of #3: Layout Plan for Owner, Douglas Miller, for land described as: Lot D of H.E.S. 537, in Section 35, T4N, R4E, and Section 2, T3N, R4E. Aye: 5, Absent: Brady and Mattson. Motion Carried.

**Declaration of Conflicts of Interest:** None

**PLATS**

**1. LAYOUT PLAT**

**Owner/Representative:** Mattson Inc, Jon & Barbara Mattson/Arleth & Associates

**Action Required:** Discussion

**Legal Description:** Layout Plat of Proposed Lots 1 thru 9 of Brighter Day Subdivision # 2 a Sub of Tract B in Secs 25&36, T5N, R3E, and Sec 30, T5N, R4E (legal shortened)

**Location:** Boulder Canyon

**Purpose:** New Subdivision

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this property had originally been platted into Tracts A and B. Tract A became Brighter Day Subdivision with approximately 13 lots. Tract B is proposed to have an additional 9 lots, with the upper portion remaining undeveloped. She is concerned with access to that upper portion of Tract B. Mattson explained at this time the transfer of property he plans for the road to be on, has not been completed. He stated he foresees an additional 6 lots, but until finalization of the property transfer, development of the upper portion is not feasible, as the best place for a large portion of the access is on that property. Vogt asked and Mattson agreed to provide an overall plan to include the entire development.

**2. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Salmon Inc, Richard Oppedahl/Arleth & Associates

**Action Required:** Approval/Denial

**Legal Description:** Plat of Tracts 1 and 2 Sub of Lot A, and Remaining Portion of HES 68, in Sections 7,17,18, T3N, R4E (legal shortened)

**Location:** Hwy 385, North of Custer Crossing Road

**Purpose:** move lot lines

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this plat is to enable a lot line move, and the lots now comply with setback regulations. This plat meets exemption requirements under Article 4 of the Subdivision Ordinance.

Moved-Seconded (O’Dea-Mickelson) motion to approve Preliminary Plat. Aye: 5, Absent: Brady and Mattson. Motion Carried.

Moved-Seconded (Mickelson-Coburn) motion to approve Final Plat. Aye: 5, Absent: Brady and Mattson. Motion Carried.

**3. LAYOUT PLAN**

**Owner/Representative:** Douglas Miller / Amber Vogt

**Action Required:** Discussion

**Legal Description:** Lot D of H.E.S. 537, in Section 35, T4N, R4E and Section 2, T3N, R4E.

**Location:** Nemo Road

**Purpose:** Layout plan

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained the request by Doug Miller to plat a +- 5 acre lot, with a remainder of less than 40 acres, out of one parcel presently described as Lot D of H.E.S. 537 (legal shortened). Miller made this request to enable him to get more favorable refinance rates. He wishes to plat only the smaller lot, leaving a remainder, a practice the Board has denied in the past. Discussion pertained to platting Mineral Surveys, and previously platted lots. Coburn and Johnson stated Board decisions need to be consistent. The Board agreed that the “Remainder” should be platted.

**PUBLIC HEARINGS AND INFORMATIONAL**

**1. PUBLIC HEARING-- ORD #09-01 - CHANGE TO CHAPTER 7, ARTICLE 17  
Development Proposal and Mitigation Requirements of the Lawrence County Subdivision  
Regulations**

**Owner/Representative:** Amber Vogt/Bruce Outka

**Action Required:** Approval/Denial

**Conflict of Interest:** None

Vogt explained the proposed changes make for easier compliance. Some wording has been moved and included under Mitigation Requirements, and other wording deleted as it is addressed in the previously approved Lawrence County Community Wildfire Protection Plan, referred to in the proposal. Mitigation Requirements include emergency ingress and egress, water sources, supplies and distribution, Weed Plan and Fire Plan. The original Article 17 was deleted and requirements added to Preliminary and Final Plat requirements. She also explained a section pertaining to preparation of plats include wording suggested by the SD Dept of Labor referring to SDCL 36-18A. Also added for consideration was wording to Section 1.6 Supplemental Requirements, pertaining to maintenance agreements, covenants and/or deed restrictions.

PROPOSERS: None

OPPOSERS: None

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING.

Vogt asked for the Board's assistance in preparing a generic set of covenants, to be used as an example, which would include all requirements called out in the ordinance. She explained the example used in the past, does not address some of the new regulations. Also discussed was compliance and completion of recommendations outlined in Chapter 6 Article 2, Section 1.6 a-d.

Moved-Seconded (Coburn-Mickelson) motion to recommend approval of Ordinance Amendment #09-01. Aye: 5, Absent: Brady and Mattson. Motion Carried.

**2. Informational – Planned Unit Development Districts**

**Owner/Representative:** Amber Vogt/Bruce Outka

**Action Required:** Discussion/Set Public Hearing

**Purpose:** Change to our current process of a PUD, to be a PUD Zoning District in itself. This would allow someone to apply for a zoning change to Planned Development Zoning and require them to plan the entire development up front with all of the different zoning aspects at once instead of doing both a PUD, a COZ and a plat.

Vogt explained the present procedure to apply for a Planned Unit Development, which usually involves Changes of Zoning requests, including fees, and hearings for both, historically held simultaneously. The process is confusing for all involved, especially the public. She has found this is an archaic format and suggests the possibility of developing a PUD Zoning District. She explained this procedure would ultimately streamline the process, and provide an overall development plan from the beginning. She asked the Board for their thoughts on adding this Zoning District. The Board agreed this concept was worth pursuing and asked Vogt to draft a proposed ordinance for consideration.

**3. DISCUSSION ITEMS:**

**1. Hwy 85 Corridor**

Vogt gave an update on the multi-use area study along Highway 85 north of Spearfish. She explained the City of Spearfish requested the study extend the area to the Red Water River, instead of ending at Kellem Lane. The committee then divided that area into two general planning guidelines. She described the goals and principles of the study. She reiterated this document is a guideline to use as a tool to aid in future planning, not an Ordinance.

Moved-Seconded (Mickelson-Coburn) motion to recommend adoption and allow the use of the Highway 85 Land Use Study guidelines. Aye: 5, Absent: Brady and Mattson. Motion Carried.

**2. Old Belle Road Corridor**

Vogt stated the same process is being used to study the Old Belle Road Corridor land use as the Hwy 85 Corridor study. This study has just begun, with an onsite visit and initial discussion. No written suggestion of guidelines has been prepared.

**3. Smokey Mountain Ranch Road Issue**

Vogt reminded the Board that at a previous meeting, final plat for a lot in Smokey Mountain Ranch had been presented. At that time the question of the road surface width in the Subdivision had come up. She had Dick Birk, Hwy Superintendent, measure the driving surface of the road, as Ordinance requires a 24 foot driving surface. Birk's measurements showed an average of 19 feet wide. She explained the original gravel surface was 24 feet, but after the developer surfaced it with an asphalt mat, the graveled edge fell away, leaving a 19 foot driving surface. The developer, Roger Riley, understands that no new plats or building permits will be approved until this matter is resolved. He asked if the road could be changed to a one-way road, and not require the driving surface to be widened. Vogt stated the Ordinance does not allow for a narrower driving surface. Riley wanted the Board to know that he was aware of the situation and asked them to consider a provision to allow a narrower one-way road.

Motion to adjourn (O'Dea) at 3:15 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF March 5, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, March 5, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Marty O’Dea, Daryl Johnson, Barb Mattson, Tom Brady. Bill Coburn arrived at 2:17 p.m.

ABSENT: Craig Mickelson

Moved-Seconded (O’Dea-Johnson) motion to approve minutes of February 5, 2009. Aye: 5, Absent: Mickelson, Coburn. Motion Carried.

Moved-Seconded (Brady-Mattson) motion to approve the agenda, moving “Items from Planning and Zoning Board Members to the end of the meeting. Aye: 5, Absent: Mickelson, Coburn. Motion Carried.

**Declaration of Conflicts of Interest:**

Brady: Item #2 - Informational meeting for CUP #373 Gravel Pit Johner & Sons Earthmoving.

O’Dea: Item #7 – Discussion with Lance Hubbard regarding Building Rights attached to an A-1 zoning.

**PUBLIC HEARING AND INFORMATIONAL**

**1. INFORMATIONAL MEETING-ORD 09-02 Planned Development Zoning District**

**Owner/Representative:** Amber Vogt

**Action Required:** Discussion/Set Hearing

**Purpose:** Zoning Ordinance Amendment adding a new Zoning District

Vogt stated she does not have a completed document for the Boards consideration, but distributed examples of documents adopted by other entities. She explained the concept of this Zoning district allows a change to Planned Development Zoning with several requirements including a development proposal for the entire project. Vogt explained the present procedure to apply for a Planned Unit Development, usually involves Changes of Zoning requests, including fees, and hearings for both, historically held simultaneously. The process is confusing for all involved, especially the public. She stated several area entities have made changes to include this zoning district. Brady suggested looking at documents from local entities to coordinate or assimilate our document to take into consideration future annexation or jurisdictional issues.

**2. INFORMATIONAL MEETING-CUP # 373 Gravel Pit– Johner & Sons Earthmoving**

**Owner/Representative:** Don Hurm, Property owner/Kent Johner, Applicant

**Action Required:** Discussion/set on-site

**Legal Description:** SE 1/4 and E1/2 SW1/4, Section 35, T7N, R3E, (legal shortened)

**Location:** St Onge

**Purpose:** Gravel Mine

**Zoning:** A-1

**Conflicts of Interest:** Brady

Vogt gave background and location information on this property. CUP #260 was issued in 2000, to Weatherton Contracting for a gravel pit on the same property. It was cancelled after non use for 12 months. Kent Johner explained the State permit is still active, with the pit being operational off and on since the early 1960's. State permit procedures include approval from the County, requiring a CUP, prior to reactivating the mining permit. The State told Johner that his company would be responsible for reclamation regulations now in place. A Public Hearing will be held at the Planning & Zoning Meeting April 2, 2009.

3. **INFORMATIONAL MEETING- Zoning Ord Amendment 09-03 – Virginia Corcoran**  
**Owner/Representative:** Virginia Corcoran  
**Action Required:** Discussion  
**Description:** Amend Zoning ordinance Section 3.5.3 Conditional Uses in Suburban Residential District to add: #19. Commercial Greenhouse  
**Purpose:** Add a Conditional Use to SRD Zoning District  
**Zoning:** SRD  
**Conflicts of Interest:** None

**ITEMS 3 and 4 were discussed simultaneously.**

4. **INFORMATIONAL MEETING- CUP #374 – Virginia Corcoran/Spearfish Greenhouse**  
**Owner/Representative:** Virginia Corcoran  
**Action Required:** Discussion/Set On-Site  
**Legal Description:** Lots 1&2 N1/2 SW1/4NW1/4, and E1/2 of Lot D of Lot 3A-2 of Lot 3 in NW1/4, Section 3, T6N, R2E.  
**Location:** Spearfish Valley off Evans Lane  
**Purpose:** Commercial Greenhouse  
**Zoning:** SRD  
**Conflicts of Interest:** None

**ITEMS 3 and 4 were discussed simultaneously.**

Vogt explained Virginia Corcoran is appealing an administrative decision Vogt made regarding the loss of Grandfather status of Spearfish Greenhouse. If Corcoran is successful with the appeal to the County Commission, the Ordinance Amendment and Conditional Use Permit procedures will not be needed. It was decided that to save time in the event the appeal decision is not in Corcoran's favor, this CUP and the Ordinance Amendment would proceed. Currently a Commercial Greenhouse is not an allowed or conditional use in Suburban Residential Zoning District, hence the need to for the Ordinance Amendment.

Corcoran explained her plans to continue the business her parents started on this property, and voiced concern with the other greenhouse businesses in the area. It was explained the others were approved under previous rules and procedures, one with a CUP and one by a Joint Jurisdiction board by a Variance procedure, no longer used. A Public Hearing was set for both the Ordinance Amendment 09-03, and CUP #374 for the Planning & Zoning meeting April 2, 2009.

5. **INFORMATIONAL MEETING- CUP #375 Small Wind Energy System– Robert Mattox**  
**Owner/Representative:** Robert Mattox  
**Action Required:** Discussion/Set On-Site  
**Legal Description:** Lot M-1, A portion of Claire #1 & #2, MS 1135, in Section 16, T4N, R4E.  
**Location:** East of HWY 385 off Elk Creek Road

**Purpose:** Wind Energy System

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this application does not meet the regulations in the proposed SWES Ordinance which has been approved but has not taken effect. Mattox is applying for a 90 foot, guyed tower under the present regulations on a 3.6 acre parcel. An onsite inspection will be held March 25, 2009 at 3:00 pm. A Public Hearing will be held at the Planning & Zoning meeting April 2, 2009.

Bill Coburn arrived during this discussion.

**6. INFORMATIONAL MEETING- COZ #285 from A-1 to RR – William Swenson**

**Owner/Representative:** William Swenson

**Action Required:** Discussion/ Set On-Site

**Legal Description:** Tract “A” of the W1/2 SW1/4SW1/4 Section 8, T6N, R3E. (20 +/- acres)

**Location:** East of Spearfish Airport, on Airport Road

**Purpose:** Change Zoning

**Zoning:** A-1 to RR

**Conflicts of Interest:** None

Vogt explained the City of Spearfish has annexed the property on three sides of this acreage. This request is to allow the division and building density for three brothers who own the property. A Public Hearing will be held at the Planning & Zoning meeting April 2, 2009.

**7. DISCUSSION: Lance Hubbard Building Right attached to an A-1 zoning**

**Representative:** Amber Vogt

**Action Required:** Discussion

**Description:** (May or May Not Be Legal Description) All that part of the NE ¼ of Section 17, T6N, R4E, being and lying northeasterly of the State Highway #34 transversing said quarter, consisting 13 acres, more or less.

**Location:** North of Whitewood on Hwy 34

**Purpose:** Question building right on A-1 parcel with present dwelling on rest of 40 acre tract.

**Zoning:** A-1

**Conflicts of Interest:** O’Dea

Vogt explained this A-1 zoned parcel is divided by Highway 34. The portion North of the highway is approximately 13 acres, and Hubbard is requesting assurance that this parcel would have a building right. She stated there is a residence on the remaining portion of the parcel, and Ordinance prohibits more than one residence per 40 acre parcel in A-1 Zoning District. Hubbard explained this property was deeded to him by his parents in 1974, and has had a residence on it in the past, and presently has a barn and calving sheds. He wishes to sell the property as it is not useful to the operation being cut off by the highway. Vogt noted in order for property to be considered a “lot of record” she has always used the recording date of June 1974 when the First Zoning ordinance was adopted. Hubbard’s deed was recorded in August 1974. As she wants to stay consistent with information given by her office, she brought this situation to the Board for a decision. After discussion regarding the old abandon road and Railroad right-of-way, the Board suggested Hubbard apply for a Change of Zoning for the entire 40+- acres to A-2, allowing the subdivision

**8. DISCUSSION: Signage Clarification of City of Lead**

Vogt read the zoning ordinance amendment 3.3.2 adding to Park Forest Zoning District, “Signs of a noncommercial nature and in the public interest, erected and maintained by a municipality or township in compliance with all other state and local laws.”

She reminded the Board the reason for this addition was to allow the City of Lead to erect a sign on property owned by, but not in the city limits of Lead. She had been contacted by Wayne Paananen about erecting several signs. Mr. Paananen explained he represented a group who wishes to erect signs promoting Lead in various places in the County. Vogt explained the ordinance amendment was specific in what the intended use was and the County has also adopted a Sign Ordinance which would not allow Paananen’s request unless treated as off premise signage, which would then need HSC-Highway Service Commercial property. The City of Lead may apply for the public interest sign, but a private individual or group can not.

**9. UPDATE: New Maps for FEMA Floodplain**

Vogt explained the process for updating the FEMA maps. She announced a representative would meet with the County Commission on May 24<sup>th</sup> to explain the update requirements.

**10. Items from Planning & Zoning Board Members**

Discussion but no decisions were made on topics including Windmills, the Sign Ordinance, Sewage Disposal Systems designs, Ag committee discussion regarding feedlots, and the Zoning Ordinance format.

Motion to adjourn (Coburn) at 4:55 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF April 2, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, April 2, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Marty O’Dea, Daryl Johnson, Barb Mattson, Bill Coburn

ABSENT: Craig Mickelson, Tom Brady

Moved-Seconded (Mattson-Coburn) motion to approve minutes of March 5, 2009. Aye: 5, Absent: 2. Motion Carried.

Moved-Seconded (Johnson-O’Dea) motion to approve the agenda with the following changes: 1. Plat for Lot 22 of Wilderness Estates pulled. 2. Request to table the hearing for CUP #373. 3. moving “Items from Planning and Zoning Board Members” to the end of the meeting. Aye: 5, Absent: 2. Motion Carried.

**Declaration of Conflicts of Interest:**

Coburn: Plat #1 Mystic Miner Tract

Tysdal: Plat #3 Lot 24, Wilderness Estates

Mattson: Plat #6 Preliminary Plat for Brighter Day Sub #2 and Plat #7 Layout Plan for Brighter Day Sub #3

**PLATS IN ORDER AS LISTED**

**1. FINAL BOUNDARY PLAT**

**Owner/Representative:** Mystic Miners

Action Required: Approval/Denial

**Legal Description:** Plat of Mystic Miner Tract, 531 +- acres in Sections 11,13,14 & 24, T4N, R2E, and Section 18, T4N, R3E. (Legal Shortened)

**Location:** Deer Mt.

Purpose: Boundary Plat

**Zoning:** PF, RC

**Conflicts of Interest:** Coburn

Bill Coburn abstained from discussion and vote

Vogt explained this plat includes 531 +- acres of mineral survey lodes, which currently all have one legal building right. The boundary plat will take away those legal building rights and will require for any subdivision to occur, a complete development plan must be presented. The majority of the property is owned by Mystic Miners, but there are a few pieces included on this plat not owned by them, however the legal property owners have signed off on the plat.

Moved-Seconded (O’Dea-Johnson) motion to approve Final Plat. Aye: 4, Absent: 2, Abstain: 1. Motion Carried.

**2. FINAL PLAT**

**Owner/Representative:** Apple Springs

Action Required: Approval/Denial

**Legal Description:** Lot 5 Block 15, Apple Springs Subdivision, Section 11, T5N, R4E. (Legal Shortened)

**Location:** Boulder Canyon

Purpose: New Lot

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt stated no changes from the Preliminary plat.

Moved-Seconded (Coburn-Mattson) motion to approve Final Plat. Aye: 5, Absent: 2. Motion Carried.

3.

### **FINAL PLAT**

**Owner/Representative:** BH Development

Action Required: Approval/Denial

**Legal Description:** Lot 24, Wilderness Estates, Sections 7,8 & 17, T4N, R3E. (Legal Shortened)

**Location:** Hwy 85 across from Deer Mt.

Purpose: New Lot

**Zoning:** PF

**Conflicts of Interest:** Tysdal

Rick Tysdal abstained from discussion and vote, but continued to run the meeting.

Vogt explained she had been in contact with Gary Engle, SD DOT, regarding an issue with the approach permit. Engle told Vogt he would not sign any more plats for Wilderness Estates until this problem has been addressed. She further explained that she and Bill Coburn had viewed the property and progress regarding tree removal for fire safety and it has been determined that they have met the requirements of the fire plan.

Moved-Seconded (Coburn-Mattson) motion to approve the Final Plat. Aye: 4, Absent: 2, Abstain: 1. Motion Carried

4.

### **REVISED PRELIMINARY PLAT**

**Owner/Representative:** Sugarloaf Village/Jerry Aberle

Action Required: Approval/Denial

**Legal Description:** Revised Preliminary Plat of Lots 1-42, Sugarloaf Village, Sub of the Cheyenne Crossing Village Tract, Section 19, T4N, R3E and Section 24, T4N, R2E, (Legal Shortened)

**Location:** Hwy 85

Purpose: New Lot

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt explained this plat combines original lots 25 & 26, being small townhouse lots, into one single family lot. Lot 18A was created to retain the original number of lots allowed.

Moved-Seconded (O'Dea-Mattson) motion to approve Revised Preliminary Plat. Aye: 5, Absent: 2, Motion Carried.

5.

### **FINAL PLAT**

**Owner/Representative:** Sugarloaf Village/Jerry Aberle

Action Required: Approval/Denial

**Legal Description:** Plat of Lot 25, Sugarloaf Village, Sub of the Cheyenne Crossing Village Tract, Section 19, T4N, R3E and Section 24, T4N, R2E, (Legal Shortened)

**Location:** Hwy 85

Purpose: New Lot

**Zoning:** SRD

**Conflicts of Interest:** None

Moved-Seconded (Mattson-Johnson) motion to approve Final Plat. Aye: 5, Absent: 2, Motion Carried.

Coburn asked why this plat is not held until all fire mitigation requirements are complete. Vogt explained this subdivision was approved prior to the adoption of the Subdivision Ordinance containing that requirement. She stated she would contact Gerry Aberle and talk with him about the fire plan requirements.

6.

### **PRELIMINARY PLAT**

**Owner/Representative:** Jon Mattson

Action Required: Approval/Denial

**Legal Description:** Preliminary Plat of Proposed Lots 1 thru 9 of Brighter Day Subdivision #2, Sections 25,36, T5N, R3E, and Section 30, T5N, R4E. (Legal Shortened)

**Location:** Two Bit Road

Purpose: New Lots

**Zoning:** PF

**Conflicts of Interest:** Mattson

Barb Mattson abstained from discussion and vote of this plat and the following layout plan.

Vogt requested discussion of this Preliminary Plat and the Layout Plan be combined.

She reminded the board of the request for a plan for the entire acreage owned by Mattson, which he provided with the layout plan. Mattson explained he has not obtained some of the parcels shown on the layout plan, but included them with future road configuration. He also explained that in order for the future roads to be designed and used he will have to obtain easements across private property. This has not been done at this time. He explained the covenants and road district for Brighter Day #1 are the same for Brighter Day #2. They will be incorporated into Brighter Day #3.

Moved-Seconded (Coburn-O'Dea) motion to approve Preliminary Plat. Aye: 4, Absent: 2, Abstain: 1. Motion Carried.

7.

### **LAYOUT PLAN**

**Owner/Representative:** Jon Mattson

Action Required: Approval/Denial

**Legal Description:** Layout Plan of Proposed Lots 1 thru 6 of Brighter Day Subdivision #3, Sections 25,36, T5N, R3E, and Section 30, T5N, R4E. (Legal Shortened)

**Location:** Two Bit Road

Purpose: New Lots

**Zoning:** PF

**Conflicts of Interest: Mattson**

Barb Mattson abstained from discussion.

The Board reviewed the layout plan while discussing the Preliminary plat above. They thanked Mattson for presenting it for their information.

**PUBLIC HEARINGS AND INFORMATIONAL**

- 1. PUBLIC HEARING-CUP # 373 Gravel Pit– Johner & Sons Earthmoving**  
**Owner/Representative:** Don Hurm, Property owner/Kent Johner, Applicant  
**Action Required:** Approval/Denial  
**Legal Description:** SE 1/4 and E1/2 SW1/4, Section 35, T7N, R3E, (legal shortened)  
**Location:** St Onge  
**Purpose:** Gravel Mine  
**Zoning:** A-1  
**Conflicts of Interest:** None

Vogt requested this hearing be tabled, as the applicant failed to mail the required notices.

Moved-Seconded (Johnson-Mattson) motion to table the hearing for CUP #373. Aye: 5, Absent: 2, Motion Carried.

- 2. PUBLIC HEARING- ORD 09-03 – Text Change Ordinance Amendment**  
**Representative:** Amber Vogt / Virginia Corcoran  
**Action Required:** Approval/Denial  
**Description:** Amend Zoning ordinance Section 3.5.3 Conditional Uses in Suburban Residential District to add: #19. Commercial Greenhouse  
**Purpose:** Add a Conditional Use to SRD Zoning District  
**Zoning:** SRD  
**Conflicts of Interest:** None

Vogt explained this amendment adds Commercial Greenhouse to the list of Conditional Uses available in Suburban Residential Zoning District.

PROPOSERS: None

OPPOSERS: None

APPLICANT: No additional comment

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING.

Coburn asked if our present ordinance defined Commercial Greenhouse. Vogt stated no, however the difference is assumed to be private refers to owner's private use, and commercial as selling to the public.

Moved-Seconded (Mattson-Johnson) motion to recommend approval of Ordinance Amendment 09-03 to add Commercial Greenhouse as an allowed use in the Suburban Residential Zoning District. Aye: 5, Absent 2. Motion Carried.

**3. PUBLIC HEARING- CUP #374 – Virginia Corcoran/Spearfish Greenhouse**

**Owner/Representative:** Virginia Corcoran

**Action Required:** Approval/Denial

**Legal Description:** Lots 1&2 N1/2 SW1/4NW1/4, and E1/2 of Lot D of Lot 3A-2 of Lot 3 in NW1/4, Section 3, T6N, R2E.

**Location:** Spearfish Valley off Evans Lane

**Purpose:** Commercial Greenhouse

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt presented the staff report recommending approval, and explained the circumstances of this request. She stated there presently is a greenhouse on Lot 2. A modular home is on lot 1, and Corcoran requests a new greenhouse between the modular and existing greenhouse. Also a third lot is requested to be included in this CUP across from these lots on Dubois Lane. Vogt presented two letters, one in support and one requesting denial, and she stated the City of Spearfish has building permit jurisdiction.

Virginia Corcoran presented a sketch of the placement of the new greenhouse, and the proposed parking plan.

**PROPOSERS:** Eric Hunt stated he has no problem with the request. He has noted the property is being cleaned up, and stated this is a perfect place as there is already one greenhouse on the property.

**OPPOSERS:** Cindy Hermann stated she is against issuing the permit until Corcoran finishes cleaning up the property. She has not seen much progress in the last 27 years. She asked about the process if the permit is issued and in a few years the weeds are up and the junk is back. She also asked if one of the conditions concerned weeds.

Randy Johnson voiced concern about using Dubois Lane to get to the parking area.

**APPLICANTS:** Corcoran discussed the parking plan prepared which includes a Handicapped spot. Vogt explained this CUP is allowing her to run the business. The parking plan and other requirements will have to be approved by the City of Spearfish before a building permit will be issued.

**PROPOSERS:** None

**OPPOSERS:** None

**CLOSED PUBLIC HEARING.**

Daryl Johnson asked if the development plan should have been presented during consideration of this permit. Vogt stated she did not require it for the CUP hearing and parking will not be allowed in any road right-of-way. Johnson also questioned condition #3 giving Corcoran one year to clean up the property. He asked Corcoran why she hasn't finished the clean up.

Corcoran explained that when her mother was in charge, things were done her way. Now, Virginia is responsible. Her son has equipment and can help her. Johnson asked her if she understands that if she doesn't follow the conditions, the Permit can be pulled. Vogt stated it is her understanding that some of the materials and items on the property will be used in the new greenhouse, and will be inside it as soon as it can be built.

Moved-Seconded (Johnson-Coburn) motion to recommend approval of CUP #374 with conditions as written, changing Condition #3 to state:

“The applicant has Six (6) months from the date of approval of this CUP to fulfill all requirements of the Development Plan and the clean up of the property, which is specified in the development plan. If at such time all requirements have not been met, the CUP will automatically be revoked.”

Further, the professionally engineered development plan is to be available for review at the County Commission hearing. Aye: 5, Absent: 2. Motion Carried.

**4. PUBLIC HEARING- CUP #375 Large Wind Energy System– Robert Mattox**

**Owner/Representative:** Robert Mattox

**Action Required:** Approval/Denial

**Legal Description:** Lot M-1, A portion of Claire #1 & #2, MS 1135, in Section 16, T4N, R4E.

**Location:** East of HWY 385 off Elk Creek Road

**Purpose:** Wind Energy System

**Zoning:** PF

**Conflicts of Interest:** None

Vogt requested this hearing be tabled, as Mattox was called out of town and wishes to be present at the hearing. The on-site viewing will also need rescheduled.

Moved-Seconded (Coburn-Mattson) motion to table CUP #375 until May 7, 2009. Aye: 5, Absent: 2. Motion Carried. The on-side is rescheduled for May 4 at 3:00 p.m.

**5. PUBLIC HEARING- COZ #285 from A-1 to RR – William Swenson**

**Owner/Representative:** William Swenson

**Action Required:** Approval/Denial

**Legal Description:** Tract “A” of the W1/2 SW1/4SW1/4 Section 8, T6N, R3E. (20 +/- acres)

**Location:** East of Spearfish Airport, on Airport Road

**Purpose:** Change Zoning

**Zoning:** A-1 to RR

**Conflicts of Interest:** None

Vogt presented the staff report explaining the proposal of the jointly owned 20 acre parcel being re-zoned and platted to allow separate ownership of three parcels each 6.6 +/- acres. Staff gives no recommendation with the following concerns listed:

1. The proposed Change of Zoning is located in A-1 General Agriculture District, but is surrounded by the City limits of Spearfish on three sides. This situation has historically allowed a Change of Zoning to a higher density when it is adjacent to the City Limits, but if we take into the consideration of the City Zoning, which is still Ag, it does not make sense from a planning standpoint to increase density, until the next adjacent property has a higher density.

An example of this precedent would be the Loup Subdivision off of Kellem Lane, the property and most of the surrounding area was zoned Agriculture, but the City Limits were adjacent to this

parcel, therefore the Change of Zoning was allowed, the platting had to go through the City of Spearfish and since this has started there has been much concern with the septic tanks and other planning issues in this area, by the City of Spearfish.

One thing I would like the Board to remember is just because we have done it in the past does not mean we have to continue making decisions because of a precedent.

2. The closest property with a higher density is about ¼ mile away, so there is no directly adjacent property with a higher density.
3. The Comprehensive Plan states we should establish intergovernmental agreements and pursue coordinated planning and community development efforts with Spearfish, which is done on a regular basis with areas that are of concern for the City of Spearfish. This fact is why the comments made by the City of Spearfish listed above are a great concern, specifically their concern with higher density on parcels that do not have city water and sewer services available at this time.

Keith Swenson represented his brothers and explained each wishes to own a parcel with a building rite.

PROPOSERS: None

OPPOSERS: None

APPLICANT: Swenson asked about easements and access documents, and was told that is the landowner's responsibility.

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING.

Vogt explained the property has extensive floodplain area, and the way the division is proposed, is the only way each parcel would have a reasonable building site. Annexation was discussed as a more logical consideration, as the property is bordered on three sides by Spearfish city limits. Vogt stated the City does not wish to annex, and Swenson stated they don't either. Johnson questioned if there will be problems created with the property close to the Airport. Vogt stated the City of Spearfish had Platting and Building permit jurisdiction of this property.

Moved by Coburn to recommend approval of COZ #285. The motion died for lack of a second.

Moved by O'Dea to recommend denial because this property should be annexed. The motion died for lack of a second.

Moved-Seconded (Coburn-Mattson) motion to recommend approval of COZ #285. Aye: Coburn, Mattson. Nay: Johnson, O'Dea, Tysdal. Absent: Brady, Mickelson. Motion Failed.

Vogt advised Swenson he has the option to continue his request to County Commission. Swenson will discuss it with his family and let her know.

6. **INFORMATIONAL MEETING-ORD #09-02 – (PD) -Planned Development Zoning District**  
**Owner/Representative:** Amber Vogt  
**Action Required:** Discussion/Set Hearing  
**Purpose:** Zoning Ordinance Amendment adding a new Zoning District

Discussion on this matter was moved to allow items scheduled later in the meeting to be heard.

Vogt presented her progress in the proposed PUD Zoning District Ordinance. She explained the benefits this procedure will provide. The Board set a Special Meeting to work on this proposal for April 9, 2009 starting at 1:30 p.m.

7. **INFORMATIONAL MEETING-ORD #09-04 – Lawrence County Zoning Ordinance Book changes, format changes, and re-adoption**  
**Owner/Representative:** Amber Vogt  
**Action Required:** Discussion/Set Special Meeting/Set Hearing  
**Purpose:** Zoning Ordinance changes, format changes and re-adoption

Discussion on this matter was moved to allow items scheduled later in the meeting to be heard.

Vogt presented a revised zoning ordinance with new format. She pointed out several sections where wording will stay the same, and others that need rewriting. The Board will work on this proposal at the Special Meeting set for April 9, 2009.

8. **INFORMATIONAL MEETING- CUP #376-Barb Moore-Specialty Resort**  
**Owner/Representative:** Barb Moore  
**Action Required:** Discussion/Set Public Hearing/Set Onsite  
**Legal Description:** LOT 3 of Nellie Terrill Ranchettes, Section 36, T6N, R4E. (72.16 acres)  
**Location:** SE of Whitewood on Whitewood Service Road, off of Eden Lane  
**Purpose:** To run a large scale Specialty Resort  
**Zoning:** PF  
**Conflicts of Interest:** None

Barb Moore explained the location of her property, and her wish to use the property inherited from her parents, as something like a Bed and Breakfast but larger. She showed floor plans of the proposed building, and discussed other events she envisions such as weddings, business meetings and retreats. She explained she has discussed her plans with her neighbors and has some plans for road maintenance and signs. No on-site was scheduled and a public hearing is set for the Planning & Zoning meeting on May 7<sup>th</sup> at 1:30 p.m.

9. **INFORMATIONAL MEETING- CUP #377- Commercial Outdoor/Indoor Arena, Boarding and Lessons-Sarina Jensen/Steinmeyer Farms Inc**  
**Owner/Representative:** Sarina Jensen  
**Action Required:** Discussion/Set Public Hearing/Set Onsite  
**Legal Description:** To Be Determined.  
**Location:** North of I-90, West of St Onge Road  
**Purpose:** Commercial Arena  
**Zoning:** A-1  
**Conflicts of Interest:** None

Sarina Jensen presented her plan for an indoor/outdoor arena for stabling and training horses. The location is north of I-90 on the St Onge Road on property they are purchasing from Steinmeyer Farms. She stated they will be updating the present buildings for the business. An on-site was scheduled for May 4 at 2:00 p.m. with a public hearing on May 7<sup>th</sup> at 1:30 p.m.

- 10. DEVELOPMENT PLAN for HSC Property-Roger Riley**  
**Owner/Representative:** Roger Riley  
**Action Required:** Discussion/Set Public Hearing/Set Onsite  
**Legal Description:** Lot 2-A of Tract A, and 3-A-1 sub of Lot 3A of Tract A, Both in Section 14, T6N, R2E.  
**Location:** Spearfish Canyon, next to the Chophouse.  
**Purpose:** Plan for Existing Commercial Property  
**Zoning:** HSC  
**Conflicts of Interest:** None

Vogt described the location of the property, zoned HSC, and Riley’s plan to start a small restaurant in the present structure. She explained the development plan did not provide adequate parking, so Riley included the Canyon Gateway Motel to the plan, with a shared parking agreement. There are some issues with the septic system, which are being addressed, and the City of Spearfish will issue any building permits, and must approve all parking plans. The Board agreed they approve of this plan and a County Commission public hearing will be held April 28<sup>th</sup> at 9:30 a.m.

- 11. DISCUSSION ITEM:**  
**City of Lead Sign Permit at Cutting Mine Road**

Dennis Schumacher, representing the City of Lead, was present to discuss the sign the City proposed to be erected along Hwy 14. His concern was with possible confusion when Wayne Paananen met with the Board regarding signs for Lead. He asked for confirmation that an informational sign for the City of Lead was still available. Vogt explained regulations in the sign ordinance, and the requirements for this sign. It is her opinion that when the City applies for the sign, and all the regulations are met, the permit should be issued. The Board agreed.

- 12. DISCUSSION ITEM:**  
**Sorensen Family Plan**

Vogt explained this property was platted in 1971, and two dwellings were built shortly after, all done before zoning regulations. The request is to divide the lot after acquiring a small portion from the neighbor, making it four acres, and when divided, each lot shall have two acres. This division does not comply with the present ordinance, but it will allow each home to be on its own lot. Platting will be required, to include this property and the neighbor's additional acreage. Vogt stated she believes this is an “exempt” plat, not requiring covenants and fire mitigation plans. The Board agreed to allow this procedure.

- 10. Items from Planning & Zoning Board Members**

Discussion but no decisions were made on topics including DENR requirements for water and soil quality, current feedlot requirements, definition of a Feedlot and other terms and words needing defined in Ordinances, and building permit requirements.

Motion to adjourn (Coburn) at 6:10 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF April 9, 2009

SPECIAL MEETING

Chairman Rick Tysdal called the special meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, April 9, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

**PRESENT:** Rick Tysdal, Craig Mickelson, Marty O’Dea, Daryl Johnson, Barb Mattson, Bill Coburn leaving at 5:17 p.m.

**ABSENT:** Tom Brady

Moved-Seconded (Mattson-O’Dea) motion to approve minutes of April 2, 2009. Aye: 6, Absent: 1. Motion Carried.

Moved-Seconded (Coburn-O’Dea) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Aye: 6, Absent: 1. Motion Carried.

**Declaration of Conflicts of Interest:** None

**1. INFORMATIONAL MEETING-ORD #09-02 – (PD) -Planned Development Zoning District**

**Owner/Representative:** Amber Vogt

**Action Required:** Discussion/Edits/Set Public Hearing

**Purpose:** Zoning Ordinance Amendment adding a new Zoning District

Amber Vogt presented the reason for this proposal being the simplification and streamlining of the present PUD process. It also provides comprehensive plan information requirements and tracking. The Board reviewed and discussed the proposal making suggestions for wording changes, additions and deletions. Vogt presented some wording suggestions from the City of Spearfish whom currently uses a similar process. Vogt also stated she would be posting the proposal online for the public to view.

Moved-Seconded (Coburn-Mickelson) motion to set a Public Hearing for the Planning & Zoning meeting May 7, 2009. Aye: 6 Absent, 1. Motion Carried.

**2. INFORMATIONAL MEETING-ORD #09-04 – Lawrence County Zoning Ordinance Book changes, format changes, and re-adoption**

**Owner/Representative:** Amber Vogt

**Action Required:** Discussion/Edits/Set Public Hearing

**Purpose:** Zoning Ordinance changes, format changes and re-adoption

Vogt presented the proposal for an updated Zoning Ordinance. She explained the new format, and pointed out additional wording or clarification in some sections. The Board reviewed the document discussing suggested additions and deletions. The District Regulations were reviewed giving consideration to each zoning district regarding definitions and uses, both allowed and conditional. Interpretation of present and proposed sections was discussed with the intent to clarify problem areas with appropriate wording and terms. Obsolete terms and wording were considered for change or deletion. Also discussed was the importance of definitions when interpreting and enforcing regulations. Vogt explained the present procedure for Building Right

Affidavits, and sited problems with this policy. Suggested changes will be made, with additional discussion to be scheduled for a future meeting.

**Items from Planning & Zoning Board Members**

Discussion but no action was taken on topics including the bridge and railroad crossings in the Whitewood area.

Motion to adjourn (O’Dea) at 5:52 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF May 7, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, May 7, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

**PRESENT:** Rick Tysdal, Craig Mickelson, Marty O’Dea, Daryl Johnson, Barb Mattson, Bill Coburn arrived at 2:00.

**ABSENT:** Tom Brady

All motions passed by unanimous vote by all members present unless otherwise noted.

Moved-Seconded (Johnson-Mickelson) motion to approve minutes of the Special Meeting, April 9, 2009. Motion Carried.

Moved-Seconded (Johnson-Mickelson) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** None

**PLATS IN ORDER AS LISTED**

**1. REVISED PRELIMINARY PLAT**

**Owner/Representative:** Sugarloaf Village/Gerald Aberle

**Action Required:** Approval/Denial

**Legal Description:** Revised Preliminary Plat of Lots 1-42, Sugarloaf Village, Sub of the Cheyenne Crossing Village Tract, Section 19, T4N, R3E and Section 24, T4N, R2E, (Legal Shortened)

**Location:** Hwy 85

**Purpose:** Movement of lot lines and addition of lots

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt explained the revisions to this plat will actually, decrease the density by (2) two, by moving lot lines to create single family residential lots instead of town home lots. Gerald Aberle, the developer, would be able to increase the density by (2) two in another area of the subdivision if a new preliminary plat was presented.

Moved-Seconded (O’Dea-Mickelson) motion to approve the Revised Preliminary Plat. Motion Carried.

**2. FINAL PLAT**

**Owner/Representative:** Sugarloaf Village/Gerald Aberle

**Action Required:** Approval/Denial

**Legal Description:** Plat of Lot 26, Sugarloaf Village, Sub of the Cheyenne Crossing Village Tract, Section 19, T4N, R3E and Section 24, T4N, R2E, (Legal Shortened)

**Location:** Hwy 85

**Purpose:** New Lot

**Zoning:** SRD  
**Conflicts of Interest:** None

Moved-Seconded (Mickelson-Mattson) motion to approve the Final Plat. Motion Carried.

3.

**FINAL PLAT**

**Owner/Representative:** Ronald, Debra, Ryan & Tara Niesent  
**Action Required:** Approval/Denial  
**Legal Description:** Plat of Tract N, located in the SW1/4 NE1/4 and NW1/4SE1/4, Section 36, T7N, R1E.  
**Location:** Northwest of Spearfish  
**Purpose:** Plat required for Building Permit  
**Zoning:** A-1  
**Conflicts of Interest:** None

Moved-Seconded (Mattson-O’Dea) motion to approve Final Plat. Motion Carried.

**PUBLIC HEARINGS AND INFORMATIONAL**

1.

**PUBLIC HEARING-CUP # 373 Gravel Pit– Johner & Sons Earthmoving**  
**Owner/Representative:** Don Hurm, Property owner/Kent Johner, Applicant  
**Action Required:** Approval/Denial  
**Legal Description:** SE 1/4 and E1/2 SW1/4, Section 35, T7N, R3E, (legal shortened)  
**Location:** St Onge  
**Purpose:** Gravel Mine  
**Zoning:** A-1  
**Conflicts of Interest:** None

Moved-Seconded (O’Dea-Mickelson) motion to take from the table. Motion Carried.

Vogt stated this request is for a 9 +- acre area to operate a gravel pit at a previously approved site. The old site was ran by Weatherton Contracting and the CUP expired a few years ago. She presented her staff report with conditions. Kent Johner explained that presently they are cleaning up the old site as per agreement with DENR. Their plan is for gravel extraction one acre at a time, with reclamation after each acre.

PROPOSERS: None

OPPOSERS: Tim Vander Heide questioned if the St Onge Road would be used for truck traffic.

APPLICANT: Johner explained the proposal for the haul route is planned along the section line, north and east to Hwy 34 and not on the St Onge Road.

PROPOSERS: None

OPPOSERS: Tim Vander Heide asked about water impact.

CLOSED PUBLIC HEARING.

Johner stated no loaded trucks would be using the St Onge road, and explained that they have no plan to use the St Onge road for unloaded trucks either, unless it would be to arrive to work in the morning.

Moved-Seconded (Johnson-Mickelson) motion to recommend approval of CUP #373 with attached conditions. Motion Carried.

**2. PUBLIC HEARING- CUP #375 Wind Energy System– Robert Mattox**

**Owner/Representative:** Robert Mattox

**Action Required:** Approval/Denial

**Legal Description:** Lot M-1, A portion of Claire #1 & #2, MS 1135, in Section 16, T4N, R4E.

**Location:** East of HWY 385 off Elk Creek Road

**Purpose:** Wind Energy System

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained the requirements to be considered for this application fall under the prior regulations, as Mattox made application prior to the adoption of the new Wind Energy System ordinance.

PROPOSERS: None

OPPOSERS: None

APPLICANT: No comment

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING

Moved-Seconded (O’Dea-Mattson) motion to recommend approval of CUP #375 with the staff recommendation and conditions. Motion Carried.

After discussion of other Wind Energy Systems in the area,

Moved-Seconded (Mattson-Mickelson) motion to ask owners of a Wind Generator in Boulder Canyon to apply for a CUP. Motion Carried

**3. PUBLIC HEARING- ORD #09-02 – (PUD) -Planned Unit Development Zoning District**

**Owner/Representative:** Amber Vogt

**Action Required:** Approval/Denial

**Purpose:** Amend Zoning Ordinance to add an additional Zoning District

**Conflicts of Interest:** None

Vogt explained she has made the changes requested at the Special meeting, and Bruce Outka reviewed the Bonding portion.

PROPOSERS: None

OPPONENTS: None

APPLICANT: No additional comment

PROPONENTS: None

OPPONENTS: None

CLOSED PUBLIC HEARING

Moved-Seconded (Mickelson-Coburn) motion to recommend approval of Ordinance #09-02.  
Motion Carried.

**4. PUBLIC HEARING- CUP #376-Barb Moore-Specialty Resort**

**Owner/Representative:** Barb Moore

**Action Required:** Approval/Denial

**Legal Description:** Lot 3 of Nellie Terrill Ranchettes, Section 36, T6N, R4E. (72.16 acres)

**Location:** SE of Whitewood on Whitewood Service Road, off of Eden Lane

**Purpose:** To run a large scale Specialty Resort

**Zoning:** PF

**Conflicts of Interest:** None

Moore reviewed her business plan, septic system, parking map and list of possible events planned.

PROPONENTS: None

OPPONENTS: Kerry Humphrey Greear stated they own 150 acres north of the Moore property. She voiced concern with drainage, the septic system, and protecting Spring Creek and the building site being close to the section line. She also stated there is no road agreement for Oyster Mountain Lane.

APPLICANT: Moore stated the septic system had been inspected and had been built for two residences. They are also considering installing gray water tanks. The reason for picking this building site is the present basement is sound, and the septic system is in place.

PROPONENTS: None

OPPONENTS: None

CLOSED PUBLIC HEARING

The Board discussed number of guests, both overnight and for public gatherings, the increased demand on the septic system, and dust control. It was decided that large events with more than 150 people would require a Temporary Use Permit.

Moved-Seconded (Mickelson-Johnson) motion to continue the hearing on the June 4th, meeting, and set an on-site viewing of the property for June 2, 2009 at 3:00 p.m. Motion Carried.

5. **PUBLIC HEARING- CUP #377- Commercial Outdoor/Indoor Arena, Boarding and Lessons-Sarina Jensen/Steinmeyer Farms Inc**  
**Owner/Representative:** Sarina Jensen  
**Action Required:** Approval/Denial  
**Legal Description:** NW1/4NW1/4SE1/4, W1/2NE1/4NW1/4SE1/4, NW1/4SE1/4NW1/4SE1/4, N1/2SW1/4NW1/4SE1/4, Section 10, T6N, R3E (22.5 acres)  
**Location:** North of I-90, West of St. Onge Road  
**Purpose:** Commercial Arena  
**Zoning:** A-1  
**Conflicts of Interest:** None

Sarina Jensen presented her proposal for the property they are purchasing from Steinmeyer Farms, and explained their plan to convert present buildings to use as an equestrian center for boarding, lessons, and arena activities. An outdoor arena is also requested.

PROPOSERS: None

OPPOSERS: Tim Vander Heide asked what is the plan for this area? His concern is with commercial ventures in an agricultural residential area.

APPLICANT: Jensen stated she does not foresee a large increase in traffic.

PROPOSERS: None

OPPOSERS: None

#### CLOSED PUBLIC HEARING

Mickelson stated this is Ag property and this is an Ag function. He does not see this use as a conflict in the area. Johnson stated this plan fits well in the area. Tysdal stated the Board has no plan for the area, but is dealing with issues as they are presented. As large acreages are broken up and sold by smaller parcels, the Board is left to deal with proposed use requests.

Moved-Seconded (Coburn-Mattson) motion to recommend approval of CUP #377 with conditions included in the staff report. Motion Carried.

6. **INFORMATIONAL MEETING- CUP #378 CO2 Tank - Jefferson Schulze, Black Hills CO2**  
**Owner/Representative:** Jefferson Schulze  
**Action Required:** Discussion/Set Public Hearing/Set Onsite  
**Legal Description:** Tract 1 Subdivision of SE1/4SE1/4 Section 31, T7N, R4E  
**Location:** Off Hwy 34 between Whitewood and St. Onge on Dane Church Road  
**Purpose:** Place a bulk CO2 Tank on property.  
**Zoning:** A-1  
**Conflicts of Interest:** None

Schulze explained his request for a 50,000 to 60,000 pound bulk CO2 tank. The Cement pad for this horizontal tank will be 8' x 35'. No on-site is needed and a public hearing is set for June 4, 2009.

7. **DISCUSSION ITEM:**

Addition of time on Agenda titled Opportunity for Public Comment

Vogt explained adding this agenda item will give people the opportunity to state concerns that may not appear on the agenda. It was decided to add this item at the end of each regular meeting.

- 8. **DISCUSSION ITEM:**  
 Status update of sub-committee assigned to evaluate CAFO regulations  
 Recommendation from P & Z Regarding CAFO Regulations

Outka stated the Planning & Zoning subcommittee and Ag committee have not met for quite a while and as of yet, have not agreed on a document for CAFO regulations. Tysdal explained the Ag committee decided to present their original ordinance proposal directly to the County Commission. The Commission Chair instructed the process be followed as other ordinance amendments have been, with a document being reviewed and heard by the Planning and Zoning Board. A special Planning & Zoning meeting will be held May 18, 2009, at 1:30 p.m. to work on this ordinance.

- 9. **INFORMATIONAL MEETING-ORD #09-04 – Lawrence County Zoning Ordinance Book changes, format changes, and re-adoption**  
**Owner/Representative:** Amber Vogt  
**Action Required:** Discussion/Edits/Set Special Meeting or Set Public Hearing  
**Purpose:** Zoning Ordinance changes, format changes and re-adoption

Vogt hopes to have a complete document adopted by the end of the summer. She asked for assistance on specific areas, and the Board set a special meeting for June 18, 2009 at 1:30 p.m. to work on this document.

**Items from Planning and Zoning Board Members:**

No items were introduced for discussion.

Motion to adjourn (O’Dea) at 4:15 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
**Craig Mickelson, SECRETARY**

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF May 18, 2009

SPECIAL MEETING

Chairman Rick Tysdal called the special meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, May 18, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Marty O’Dea, Daryl Johnson, Barb Mattson, Tom Brady

ABSENT: Bill Coburn

All motions passed by unanimous vote by all members present unless otherwise noted.

Moved-Seconded (Brady-Johnson) motion to approve minutes of May 7, 2009. Motion Carried.

Moved-Seconded (Brady-Johnson) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** None

1. **WORK SESSION -Animal Feeding Operation Ordinance**  
**Owner/Representative:** Amber Vogt/Planning and Zoning Board  
**Action Required:** Discussion/Edits/Writing of the Ordinance/Set Informational Meeting  
**Purpose:** Addition of Animal Feeding Operation Ordinance

Items for Review:

- a. Draft Ordinance-Lawrence County Ag Committee
- b. DENIED-Ordinance 08-08
- c. Lincoln County Ordinance
- d. Yankton County Ordinance

The Board discussed the above ordinances and made the decision to work on the original ORD 08-08 presented last year, this original document was denied by Planning and Zoning and County Commission. While reviewing this document they also took the others listed above into consideration.

Tom Brady discussed the task force that was set up by the Commission last year and why things did not go as planned, due to time constraints of his regular job. He felt that there was a lack of trust and clarity in the definitions. Some of the questions that were addressed in these task force meetings included: How to identify existing operations? Whether or not these existing operations would be considered legal or grandfathered into the new ordinance? He also felt that at the time the Comprehensive Plan was created, the term commercial feedlot was meant to be used much like the Concentrated Animal Feeding Operation term today. There does need to be some continuity between the current definition in our Comprehensive Plan and the County Ordinances and the State Laws.

The Board discussed the focus of the County and the State being different. The state is concerned strictly with environmental issues and the county looks at such things on a land use

and planning basis. There was a lengthy discussion regarding the map created showing the 3 mile, the 1 mile and the ½ mile boundaries around the City of Spearfish. This idea was also discussed that if you did this for Spearfish you would also have to create this same procedure for St. Onge, Whitewood, Lead and Deadwood. In the end the Board determined a map such as this was not needed as similar boundaries are set up within the setback requirements. They also discussed the possibility of creating a Special Use Permit for a Small CAFO if it can meet all of the setback requirements of a large CAFO. This would be done through a site plan review and a setback review, then if it was able to meet the requirements the Planning and Zoning office would issue a Special Use Permit/Building Permit, without having to go through the Conditional Use Permit Application process. If you could not meet those underlying requirements set out in the tables, you would then need a CUP no matter if it was a Small, Medium or Large CAFO. It was asked if we have the capability in the office to look at maps from the USGS related to the different types of water. Vogt stated we do. Further discussion regarded the setback requirements for waste disposal and actual location of the CAFO. The Board went on to discuss the definitions within the Ordinance, specifically adding a definition of agriculture and the definition of a CAFO.

Diane Miller was present and toward the end of the meeting asked if she could ask some questions and give some suggestions. These included concerns with the setbacks issues and definitional issues that the Board had been discussing. She also felt that a number of current operations in the County would not be able to meet the setback requirements. She also stated that there was a large number of the Ag people in the County which have a very strong distrust for the County at this time. The Planning and Zoning Board asked Diane if she would be willing to set up a few people through out the community that are currently running operations and who could not meet these regulations for the Board to do an on-site on to actually see how these operations are run. They would like to see what exactly is going on out there to make the regulations fair for all. Diane offered her operation as a possibility, but said she did not know about others because of the distrust and the scrutiny it might bring from the public.

Vogt stated she would have the revisions made to the existing document by Friday and would them email it to Eric Jennings with the Lawrence County Ag Committee for their review. She asked that the Ag Committees response be received no later than Monday, June 1, 2009. Another Special Meeting was set for another work session on June 2, 2009 at 1:00 p.m. the Board will review the Ag Committees response at that time.

### **Items from Planning & Zoning Board Members**

Discussion regarded existing Ag operations and the fact that in the Board's eyes, most of the operations discussed today would fall under the normal Ag operation, not a CAFO.

Moved-Seconded (Mickelson-Mattson) motion to adjourn at 5:30 p.m..

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF June 2, 2009

SPECIAL MEETING

Chairman Rick Tysdal called the special meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, June 2, 2009 at 1:00 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Daryl Johnson, Barb Mattson arrived at 1:36, Tom Brady arrived at 2:00

ABSENT: Bill Coburn, Craig Mickelson, Marty O’Dea,

All motions passed by unanimous vote by all members present unless otherwise noted.

Moved-Seconded (Johnson-Brady) motion to appoint Barb Mattson Acting Secretary. Motion Carried.

Moved-Seconded (Mattson-Brady) motion to approve minutes of May 18, 2009. Motion Carried.

Moved-Seconded (Brady-Mattson) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** None

- 1. WORK SESSION -Animal Feeding Operation Ordinance**  
**Owner/Representative:** Amber Vogt/Planning and Zoning Board  
**Action Required:** Discussion/Edits/Writing of the Ordinance/Set Informational Meeting  
**Purpose:** Addition of Animal Feeding Operation Ordinance

Discussion began with only Tysdal and Johnson present, they were able to call the meeting to order, but understood that no decisions could be made without a quorum present, a quorum being 4 members. Members of the audience included Leo Orme, Tommy Thompson, Jim Eddy, and Eric Jennings. Tysdal explained he had discussed the changes made at the previous special meeting with Eric Jennings, chairman of the Ag Committee, and the Ag Committee decided that the proposed ordinance did not coincide with the thoughts of the ag committee, therefore they decided not to respond.

Diane Miller sent a copy of an ordinance from Bowman County, ND, for the Board to consider some of the definitions. These definitions and the rest of this document were discussed at length. Vogt explained the references incorporated into present A-1, A-2 and Park Forest Zoning Districts, to include Concentrated Animal Feeding Operation (CAFO) and other Agricultural uses. The proposal lists Allowed Uses and Conditional Uses, and adds Allowed Special Uses. She proposes that Small CAFOs be allowed to apply for an Allowed Special Use permit, instead of a Conditional Use Permit, if it can meet all requirements of a Large CAFO. The Board agreed that the Allowed Special Use shall also include Medium CAFO’s. Definitions were considered for various terms, including, but not limited to winter feeding operation, concentrated animal feeding operation, dry lot, agriculture and wetlands. The 3 tables included in this Ordinance were discussed at length. These tables included numbers and types of animals, setbacks for waste disposal and setbacks for the actual operation. The question arose about possible variances to the setback requirements set out in the ordinance, it was determined that the current variance

procedure can only be used for hardship on the property due to a physical barrier. Then an idea of setting out an exemption to the setbacks arose. This exemption would allow property owners to receive an exemption from their neighbors to be closer to the property lines. Concern was voiced regarding regulating small numbers of animals, such as 4-H projects or herd containment during certain times such as calving or winter feeding.

All of the following items were discussed: The State Right to Farm Statute, the previous and existing Comprehensive Plans, the previous and exiting Lawrence County Zoning Ordinances, the interpretations of these documents, “what if” situations, current operations, and possible resolutions.

The Board asked Amber Vogt and Bruce Outka to work on some wording regarding the nonconforming uses and the existing operations. They added this proposal to the Thursday, June 4, 2009 Regular Lawrence County Planning and Zoning meeting as an informational item.

**Items from Planning & Zoning Board Members:** None

Moved-Seconded (Mattson-Johnson) motion to adjourn at 3:55 p.m..

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF June 4, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, June 4, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Marty O’Dea, Daryl Johnson, Barb Mattson, Tom Brady.

ABSENT: Bill Coburn

All motions passed by unanimous vote by all members present unless otherwise noted.

Moved-Seconded (Mattson-Johnson) motion to approve minutes of the Special Meeting, June 2, 2009. Motion Carried.

Moved-Seconded (Johnson-Mickelson) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** Tysdal: Plat #1, for MJG Inc. Brady: Plat #1, for MJG, Inc, and Item #4, Informational meeting for CUP #379., for JoEtta Dickert and Deidra Larson.

**PLATS IN ORDER AS LISTED**

- 1. **FINAL PLAT**  
**Owner/Representative:** MJG Inc/NJS Engineering  
**Action Required:** Approval/Denial  
**Legal Description:** Plat of Lots 21 through 23 Blk 1, Wild Turkey Estates (Legal Shortened)  
**Location:** West of Spearfish  
**Purpose:** New Lots  
**Zoning:** PF & A-2  
**Conflicts of Interest:** Tysdal, Brady

Tysdal and Brady abstained from discussion and vote. Tysdal continued to conduct the meeting.

Vogt stated the roads are complete for this plat and have been checked by the Highway Superintendent.

Moved-Seconded (Mickelson-Mattson) motion to approve Final Plat. Aye: 4, Abstain: 2, Motion Carried.

- 2. **LAYOUT PLAN**  
**Owner/Representative:** Darryl and Lois Vig/Ponderosa Land Surveys  
**Action Required:** Approval/Denial/Set Onsite/Discussion  
**Legal Description:** Layout Plan for Big Foot Tract and Black Thunder Tract, Portions of MS 1158 in Section 18, T4N, R3E, (Legal Shortened)  
**Location:** Deer Mt.  
**Purpose:** New Lots  
**Zoning:** PF  
**Conflicts of Interest:** None

The Vigs have a 5.5+- acre remainder of lodes after previous platting, they wish to plat into two lots. Vogt described the history of subdivision of this and surrounding property. It is her opinion that the remaining acreage is not of sufficient size for further subdivision, and recommends denial. The Vigs explained they were told by the previous administrator they would have this option. The Board stated this division would exceed maximum density, and to be consistent, and abide by the Ordinances, this Park Forest property can not be further subdivided. They gave recommendation of trying for a COZ to the Suburban Residential District for possible further subdivision.

Moved-Seconded (Mickelson-Johnson) motion to deny the Layout Plan. Motion Carried.

3. **FINAL PLAT**  
**Owner/Representative:** Don & Karen Hander/Arleth & Associates  
**Action Required:** Approval/Denial  
**Legal Description:** Plat of Lots 13 & 14, country Club Estates (Legal Shortened)  
**Location:** Rochford Road  
**Purpose:** New Lots  
**Zoning:** SRD  
**Conflicts of Interest:** None

Vogt stated the Road and Water system requirements are complete.

Moved-Seconded (Brady-Mattson) motion to approve Final Plat. Motion Carried.

4. **FINAL PLAT**  
**Owner/Representative:** Kip Kalamaha, Granted Grace Inc/Arleth & Associates  
**Action Required:** Approval/Denial  
**Legal Description:** Plat of Lots 1A, 2A, 3A, 5A, 10A, & 11A Tahencala Ridge Sub (Legal Shortened)  
**Location:** Boulder Canyon  
**Purpose:** Move lot lines  
**Zoning:** PF  
**Conflicts of Interest:** None

Vogt explained this is a re-plat to adjust lot lines, with minimal change in acreage. Frank Dicesare, representing Arleth and Associates, explained the changes were to move the lot lines to the easements.

Moved-Seconded (Brady-Mickelson) motion to approve Final Plat. Motion Carried.

5. **FINAL PLAT**  
**Owner/Representative:** Greenview LLC/Arleth & Associates  
**Action Required:** Approval/Denial  
**Legal Description:** Plat of Lot 6 and Common Lot of Greenview Estates (Legal Shortened)  
**Location:** Hwy 85 South  
**Purpose:** New Lot  
**Zoning:** PF  
**Conflicts of Interest:** None

Moved-Seconded (O'Dea-Mattson) motion to approve Final Plat. Motion Carried.

6. **PRELIMINARY AND FINAL PLAT**  
**Owner/Representative:** Northstar Ent., LLC & Artisan Homes, Inc/Arleth & Associates  
**Action Required:** Approval/Denial  
**Legal Description:** Plat of Lots 13A, 14A and 15A, Blk 2 of Tract A of Lost Camp Valley Acreage (Legal Shortened)  
**Location:** Terry Peak  
**Purpose:** Move Lot Lines  
**Zoning:** SRD  
**Conflicts of Interest:** None

Vogt explained this is plat is exempt from subdivision regulations, as the object is to move lot lines due to setback issues in the Homeowners Covenants. The acreage of each lot remains the same.

Moved-Seconded (O’Dea-Johnson) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Mickelson-Johnson) motion to approve Final Plat. Motion Carried.

## **PUBLIC HEARINGS AND INFORMATIONAL**

1. **PUBLIC HEARING- CUP #376-Barb Moore-Specialty Resort (tabled at May 7, 2009 meeting---bring off the table)**  
**Owner/Representative:** Barb Moore  
**Action Required:** Approval/Denial  
**Legal Description:** Lot 3 of Nellie Terrill Ranchettes, Section 36, T6N, R4E. (72.16 acres)  
**Location:** SE of Whitewood on Whitewood Service Road, off of Eden Lane  
**Purpose:** To run a large scale Specialty Resort  
**Zoning:** PF  
**Conflicts of Interest:** None

Moved-Seconded (Brady-Mickelson) motion to take from the table, CUP #376. Motion Carried.

Vogt explained this item was tabled in order to do an onsite viewing of the property. At that time, the Board had asked about access easements and Moore provided documents regarding right-of-ways and easements. Moore asked for clarification and possible changes of some proposed conditions.

PROPOSERS: None

OPPOSERS: Mike Greear questioned if motorcycle camping, as in previous years, would be allowed. He is concerned because the proposed lodge will be close to the Greear home. He also voiced concern for the possible pollution of Spring Creek

APPLICANT: Moore stated they have had friends stay with them each year, and usually tent in the yard and use the facilities in the home. There are rules regarding noise and traffic.

PROPOSERS: None

OPPONENTS: Mike Greear asked if the friends that camp at the Moore's, pay to stay.

## CLOSED PUBLIC HEARING

Moore explained the usual agreement has been to pitch in for groceries, so money was exchanged, but it was not a campground rental situation.

The Board discussed and suggested changes in wording of conditions. Brady stated he respects concerns for water, however, the septic system must be engineered, and must meet State requirements, and he can't see the risk of pollution being any greater, if not significantly less than the use as a horse pasture that goes down to the creek.

Moved-Seconded (Brady-Mickelson) motion to recommend approval of CUP #376 with changes in conditions #13, 20, 23 and 24, as shown: Motion Carried.

13. The Specialty Resort operator shall assign one or more persons to remain on the premise when guests are present and to provide security when the facility is open.
20. Property owner shall be responsible for reasonable dust control and maintenance of the Oyster Mountain Lane.
23. Shall not result in invasive, unreasonable or offensive noise and otherwise create a private or public nuisance.
24. Any change of property ownership, with the proposed transfer of this subject Conditional Use Permit, shall be reported immediately to the Office of Planning and Zoning and reviewed by the County Commission.
  - a. If any terms, condition or requirement stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable State and Federal regulations are not fully complied with in all respects, this permit shall be reviewed and may be suspended or revoked.
  - b. This permit shall be reviewed on an annual basis or on an as needed basis to assure compliance with the attached conditions, at which time additional conditions may be attached or the permit may be cancelled if deemed necessary for the protection of the public interest.

2. **PUBLIC HEARING- CUP #378 CO2 Tank - Jefferson Schulze, Black Hills CO2**  
**Owner/Representative:** Jefferson Schulze  
**Action Required:** Approval/Denial  
**Legal Description:** Tract 1 Subdivision of SE1/4SE1/4 Section 31, T7N, R4E  
**Location:** Off Hwy 34 between Whitewood and St. Onge on Dane Church Road  
**Purpose:** Place a bulk CO2 Tank on property.  
**Zoning:** A-1  
**Conflicts of Interest:** None

Vogt explained this property is on Dane Church Road in the St Onge area, and Schulze requests a permit to place a bulk tank on his property to contain liquid carbon dioxide. His business presently must drive to Gillette, WY to load his delivery truck.

PROPOSERS: None

OPPOSERS: None

APPLICANT: No comment

PROPOSERS: None

OPPOSERS: None

#### CLOSED PUBLIC HEARING

O'Dea stated he received a call from Cliff Jensen, a neighbor, asking about provisions in case of abandonment. He told Mr. Jensen one of the conditions addresses this issue.

Moved-Seconded (Brady-Mickelson) motion to approve CUP #378, with conditions included in the staff report. Motion Carried.

### 3. **INFORMATIONAL MEETING- COZ # 287- Union Resorts LLC Various Zoning districts to PUD**

**Owner/Representative:** Kevin Klaprodt

**Action Required:** Discussion/Set Public Hearing/ Set On-site

**Legal Description:** Mystic Miner Tract in Sections 11,13, 14 & 24, T4N, R2E, and Section 18, T4N, R3E (Legal Shortened)

**Location:** Deer Mountain

**Purpose:** Planned Unit Development

**Zoning:** PF, RC, SRD

**Conflicts of Interest:** None

Kevin Klaprodt, representing Mystic Miner, formerly Deer Mountain Resort, gave a brief overview of plans for the 530+- acre proposal. The PUD would commence in phases for infrastructure, with central water and sewer systems either new or upgraded. He showed the Location, Phasing, and Layout plans of the subdivision, including the roads, water systems and wastewater system.

Vogt stated that Board Member Bill Coburn was hired by the owners to prepare the Fire Protection and Mitigation plan, and will not be involved in discussion, other than as a presenter, or decisions concerning this application. She also explained that the Ordinance Amendment allowing this procedure, has not yet been adopted, nor taken effect. Should the Amendment not be adopted, the application will be withdrawn as a Change of Zoning, and the applicant will proceed as required under present ordinance regulations. The projected effective date is prior to the next Planning & Zoning meeting. She also stated the approved plat for Mystic Miner Tract must be recorded prior to any public hearings.

An on-site viewing is set for June 18, 2009 at 4:30 p.m., and a public hearing for July 2, 2009.

### 4. **INFORMATIONAL MEETING- CUP# 379- JoEtta Dickert and Deidra Larson- Temporary Second Residence**

**Owner/Representative:** JoEtta Dickert and Diedra Larson

**Action Required:** Discussion/Set Public Hearing/ Set On-site  
**Legal Description:** MS 1749 Tract B, Lehigh Lode in Section 9, T4N, R4E  
**Location:** Galena Road  
**Purpose:** Temp. 2<sup>nd</sup> Residence (mobile home) for sister/co-owner due to death of spouses  
**Zoning:** PF  
**Conflicts of Interest:** Brady

Brady left the room and abstained from discussion and vote.

Vogt explained the location of this property, and the sister's request to place a mobile home on a 9.5+- acre lot that presently has one residence on it. She explained there are access and floodplain issues with placement of a mobile home on adjacent property. They own approximately 60 acres surrounding this lot. No onsite inspection was scheduled. A public hearing is set for July 2, 2009.

**5. INFORMATIONAL MEETING- CUP# 380- Charles Wennberg-Temporary Second Residence**

**Owner/Representative:** Charles Wennberg  
**Action Required:** Discussion/Set Public Hearing/ Set On-site  
**Legal Description:** NE1/4 SW1/4, Section 15, T6N, R4E – 40 acres (Legal Shortened)  
**Location:** Whitewood Valley  
**Purpose:** Temp. 2<sup>nd</sup> Residence for themselves, so daughter can live in their permanent residence and take care of them.  
**Zoning:** A-1  
**Conflicts of Interest:** None

Mr. Wennberg asks for a mobile home to be placed on the same A-1 zoned, 40 acre parcel as his present residence, to allow his daughter to live close by. No on-site viewing was scheduled, and a public hearing is set for July 2, 2009.

**6. RECOMMENDATION MEETING- DP 09-02- Crow Peak Brewery**

**Owner/Representative:** Jeff Drumm  
**Action Required:** Approval/Denial Recommendation to County Commission  
**Legal Description:** Lot Y-1 and Z-1 of the NE ¼ NE ¼ of Section 4, T6N, R2E.  
**Location:** Evans Lane  
**Purpose:** Development of commercial property  
**Zoning:** HSC  
**Conflicts of Interest:** None

Vogt explained the present operation of Crow Peak Brewery and the request to expand the business. The property is zoned Highway Service Commercial, and Ordinance requires a development plan be approved for expansion. She stated they have met all requirements.

Moved-Seconded (Brady-Mattson) motion to recommend approval of the Development Plan for Crow Peak Brewery based on the staff recommendation and that it is a significant improvement and betterment to the Community and County. Motion Carried.

**7. INFORMATIONAL MEETING -Animal Feeding Operation Ordinance-ORD 09-05**

**Owner/Representative:** Amber Vogt/Planning and Zoning Board  
**Action Required:** Discussion/Set Public Hearing  
**Purpose:** Addition of Animal Feeding Operation Ordinance

Tysdal reviewed the Special Meeting held on June 2, 2009 and the progress made on the document. Definitions including those for Animal Wintering Operations and Back-grounding were discussed. Minimum numbers for Small operations was considered, and maximum numbers of some types of animals were lowered. Vogt addressed questions and concerns received from Diane Miller and Eric Jennings She suggested Non-conforming uses not be addressed in this section specifically, because this term applies to more than just this ordinance section. The Board made the deletion of Animal Wintering Operation in the definitions and the allowed uses without a permit. A public hearing was set for July 2, 2009.

**8. Opportunity for Public Comment:**

Amy Wright, reporter for the Black Hills Pioneer, asked why this ordinance is being considered, and how important Agriculture is to this area. Johnson answered that Agriculture is very important to this area, and the reason for this and any ordinance, is to have some control or protection so something that is not appropriate for the area, does not take place. This proposal needs to be done to avoid future problems.

**9. Items from Planning and Zoning Board Members:**

Johnson explained during an on-site viewing, he had been asked about a feedlot in the Whitewood area, and concern was voiced about potential pollution of Spring Creek. Vogt explained she had been asked to contact DENR regarding this operation and had done so.

Moved-Seconded (O'Dea-Mickelson) motion to adjourn at 5:21 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF June 18, 2009

SPECIAL MEETING

Chairman Rick Tysdal called the special meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, June 18, 2009 at 1:30 p.m. in the County Commissioners Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Marty O’Dea, Daryl Johnson, Barb Mattson, Bill Coburn.

ABSENT: Tom Brady

All motions passed by unanimous vote by all members present unless otherwise noted.

Moved-Seconded (Mattson-O’Dea) motion to approve minutes of June 4, 2009. Motion Carried.

Moved-Seconded (Johnson-Mattson) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** None

- 1. INFORMATIONAL MEETING –ORD #09-04 Lawrence County Zoning Ordinance Book changes, format changes, and re-adoption**  
**Owner/Representative:** Amber Vogt  
**Action Required:** Discussion/Edits/Set Public Hearing  
**Purpose:** Zoning Ordinance changes, format changes and re-adoption

Vogt reviewed the changes discussed previously and suggested consideration start with Chapter 7, where the Board left off when last working on the proposal. Her proposal is to change Parking and Loading Regulations to match the City of Spearfish regulations. Wording regarding lighting was considered. Sign Regulations were touched on and some changes made. On premise and Home Occupation signs were discussed, again with lighting considered. Additional Use Regulations, Non-Conforming Uses, Existing Lots of Record, and Building Permits were reviewed. Development Plans were discussed in length and the suggestion to widen the use of this tool was considered. Suggested changes will be made to the document, and Vogt asked that the Board contact her if corrections are found or with suggestions of additional wording.

A public hearing on this ordinance is set for the August 13, 2009 Planning and Zoning Meeting.

**Items from Planning & Zoning Board Members:**

Discussion but no action was taken on the topic of the Spearfish Canyon Homeowners Association and the County’s role regarding their covenants.

Motion to adjourn (Mickelson) at 4:00 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF July 2, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, July 2, 2009 at 1:30 p.m. in the Deadwood City Council Room, 100 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Marty O’Dea, Daryl Johnson, Barb Mattson, Tom Brady, Bill Coburn.

ABSENT: None

All motions passed by unanimous vote of all members present unless otherwise noted.

Moved-Seconded (Mattson-Coburn) motion to approve minutes of the Special Meeting, June 18, 2009. Motion Carried.

Moved-Seconded (O’Dea-Mattson) motion to approve the agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** Tysdal: Plat #1, for Frawley Ranches. Mattson: Item #5, Recommendation meeting for VAR #124 for Ruth O’Neill. Brady: Item #3, Public Hearing for CUP #379 for Dickert and Larson. Coburn: Item #2 Public Hearing for COZ #287 for Union Resorts LLC.

**PUBLIC HEARING:**

**1. PUBLIC HEARING –ORD 09-05 Concentrated Animal Feeding Operation**

**Owner/Representative:** Amber Vogt/Planning and Zoning Board

**Action Required:** Approval/Denial

**Purpose:** Addition of Animal Feeding Operation Ordinance

Chairman Tysdal opened with a statement explaining the public hearing process and the history of the preparation of this document. He gave approximately 30 minutes to hear input at this hearing.

The following voiced concerns and suggestions. Travis Schenk, Eric Jennings, Cris and Dianne Miller, Troy Hadrick, Don Hiesley, Bob Spears, Dan Schenk, Tom Smith, Clint Ridley, Harvey Krautschun, Mike McGuigan, Kyle Vavruska, Richard Sleep, Dr. Warren Gollither, Cliff Jensen, Nate Fredricksen, Justin Tupper, Bart Krautschun, Russell Miller, Ross Delzer, Bob Hazzard. Most suggestions asked for the small and medium categories to be deleted, and the lessening of the setback requirements. Fears of non compliance and the inability to continue present operations were voiced. Amber read three letters from Dave Hoffman, McGuigan Inc, and Edgar and Carole Kellem, all voicing disapproval of this ordinance.

The Public Hearing was closed

Moved-Seconded (Johnson-Mattson) motion to recommend denial of Ordinance #09-05. Motion Carried.

The Board will discuss scheduling more special meetings to work on a new document at the August 13 meeting.

The rest of the meeting was held in the County Commission meeting room in the County Annex Building

## **PLATS IN ORDER AS LISTED**

### **1. FINAL PLAT**

**Owner/Representative:** Frawley Ranches Inc/NJS Engineering

**Action Required:** Approval/Denial

**Legal Description:** Plat of Lots 47 and M of Frawley Ranch East (Legal Shortened)

**Location:** North of I-90, West of Whitewood

**Purpose:** New Lots

**Zoning:** A-1

**Conflicts of Interest:** Tysdal

Tysdal abstained from discussion and vote, but continued to run the meeting as approved by the Board.

Moved-Seconded (Brady-Coburn) motion to approve Final Plat. Aye: 5, Abstain: Tysdal, Absent: Johnson. Motion Carried.

### **2. LAYOUT PLAN**

**Owner/Representative:** Diocese of SD Episcopal Church/Ponderosa Land Surveys

**Action Required:** Approval/Denial/Set Onsite/Discussion

**Legal Description:** Layout Plan for Lots 1 thru 6 of HES 243, Sections 14,15,22 & 23, T3N, R1E, (Legal Shortened)

**Location:** Hwy 85 South at Tinton Road intersection.

**Purpose:** New Lots

**Zoning:** PF

**Conflicts of Interest:** None

Loren Vrem, Ponderosa Land Surveys, and Mike Sweet, representing the Diocese of SD, explained the reason for this request being the Church wishes to sell some of the 160 acres and to do so will need to subdivide. The Layout was explained and subdivision regulations regarding primary and emergency access were discussed. There was extensive discussion on the requirements of a second way in and out of this property, the Board wishes to see an easement between Lots 3 and Lot4 in order to have a second access out for Lot 6. A preliminary plat will be prepared for future consideration.

### **3. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Steve Risdal/Arleth & Associates

**Action Required:** Approval/Denial

**Legal Description:** Plat of Tracts 3A-1A and 3A-1B Section 20, T5N, R4E(Legal Shortened)

**Location:** Off Radio Tower Road

**Purpose:** Previously platted but never recorded. Plat lost

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this property was previously platted but the mylar was lost.

Moved-Seconded (O’Dea-Mickelson) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Mickelson-Mattson) motion to approve Final Plat. Motion Carried.

## **MORE PUBLIC HEARINGS AND INFORMATIONAL MEETINGS**

### **2. PUBLIC HEARING-COZ # 287 Union Resorts LLC PF, SRD and RC to PUD**

**Owner/Representative:** Kevin Klaprodt

**Action Required:** Approval/Denial

**Legal Description:** Mystic Miner Tract in Sections 11,13, 14 & 24, T4N, R2E, and Section 18, T4N, R3E (Legal Shortened)

**Location:** Deer Mountain

**Purpose:** Planned Unit Development

**Zoning:** PF, RC, SRD

**Conflicts of Interest:** Coburn

Coburn abstained from discussion and vote as he has been involved in this project in regards to the Fire Plan Proposal.

Kevin Klaprodt explained the concept plan for Mystic Miners (Deer Mountain) to become a vacation home resort with the ski hill being the amenity, and development of a village type setting of ski in, ski out residences, condos, and small commercial areas providing services to residents and visitors. He presented phasing plans and described infrastructure plans both new and upgraded. A central, self contained sewage system similar to the Apple Springs system, is planned with cold water fishery acceptable effluent that can be used for snow making. He explained plans for additional water storage and discussions with Lead-Deadwood Sanitary District for a long term agreement to provide a system large enough for present use, Mystic Miner development use, and possible future development of surrounding areas.

**PROPOSERS:** None

**OPPOSERS:** Joe Kosel stated he is opposed because of the problems with the water system, and the lack of finalized agreements regarding roads and the water system. He stated he believes this is a “Cart before the Horse” situation and the request should not be granted at this time.

**APPLICANT:** Klaprodt stated they have had preliminary discussions with the Road District, but do not have an agreement at the present time. In the short time they have owned the property, they have demonstrated they can do things right.

**PROPOSERS:** None

**OPPOSERS:** Vogt read a letter from Thomas Kassube objecting to the change. Kosel stated he isn’t sure there is a need for this subdivision. He listed several subdivisions in the area in which many lots have not sold.

### **CLOSED PUBLIC HEARING**

Brady questioned why there is resistance from residents in the area to upgrading the infrastructure systems. He does understand the concern because of past problems, but believes these improvements would substantially improve their water service.

Vogt explained the new regulations include a Concept Plan and a Master Plan. The Master plan is not complete, with several issues not complete at this time. Both Plans must be approved by the County Commission before a Change of Zoning can take affect.

Moved-Seconded (Mattson-Mickelson) motion to approve the Concept Plan for COZ #287, and table consideration of the Master Plan until the August 13<sup>th</sup> meeting. Aye: 6, Abstain: Coburn. Motion Carried.

**3. PUBLIC HEARING- CUP# 379- JoEtta Dickert and Deidra Larson-Temporary Second Residence**

**Owner/Representative:** JoEtta Dickert and Diedra Larson

**Action Required:** Approval/Denial

**Legal Description:** MS 1749 Tract B, Lehigh Lode in Section 9, T4N, R4E

**Location:** Galena Road

**Purpose:** Temp. 2<sup>nd</sup> Residence (mobile home) for sister/co-owner due to death of spouses

**Zoning:** PF

**Conflicts of Interest:** Brady

Brady abstained from discussion and vote.

Vogt gave an overview of the request and conditions for a temporary second residence for the co-owner/sister. Vogt stated there will be issues which need be resolved with the floodplain and septic systems prior to issuance of a building permit for this 2<sup>nd</sup> residence.

PROPOSERS: None

OPPOSERS: Timothy Johns stated he is not appearing in opposition or in favor. He has concerns with water quality and increased traffic.

APPLICANT: No additional comment.

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING

Moved-Seconded (Mickelson-Coburn) motion to change the condition #4 to read:  
#4. Any change of property ownership will make this CUP null and void. Also to change the number/letter format to the following. Change #4. a. to number 5. and #4.b. to number 6. Aye: 6, Abstain: Brady. Motion Carried.

Moved-Seconded (Coburn-Mickelson) motion to recommend approval of CUP #379 with the prior changes in conditions. Aye: 6, Abstain: Brady. Motion Carried.

**4. PUBLIC HEARING- CUP# 380- Charles Wennberg-Temporary Second Residence**

**Owner/Representative:** Charles Wennberg

**Action Required:** Approval/Denial

**Legal Description:** NE1/4 SW1/4, Section 15, T6N, R4E – 40 acres (Legal Shortened)

**Location:** Whitewood Valley

**Purpose:** Temp. 2<sup>nd</sup> Residence for themselves, so daughter can live in their permanent residence and take care of them.

**Zoning:** A-1

**Conflicts of Interest:** None

Vogt explained this request for a temporary second residence to allow Wennberg's daughter to live on the same parcel as the parents. She presented a site plan and stated there is presently a mobile home used as a studio. She further explained the location of the proposed mobile home, and explained the property is in the Whitewood Superfund site, and there are floodplain issues that will be dealt with at the building permit level.

PROPOSERS: None

OPPOSERS: None

APPLICANT: No comment

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING

Moved-Seconded (Mickelson-Brady) motion to recommend approval of CUP #380 with the change in condition #4 to read: #4. Any change of property ownership will make this CUP null and void. Also to change the number/letter format to the following. Change #4. a. to number 5. and #4.b. to number 6. Motion Carried.

**5. RECOMMENDATION MEETING- VAR #124 19.8' variance from 25' front setback.**

**Owner/Representative:** Ruth O'Neill / Jimmy Mattson

**Action Required:** Approval/Denial Recommendation to County Commission

**Legal Description:** Lot 7, Two Bit Springs Subdivision.

**Location:** Boulder Canyon

**Purpose:** Allow home to stay in place granting variance to front setback requirements.

**Zoning:** PF

**Conflicts of Interest:** Mattson

Mattson abstained from discussion and vote.

Vogt explained an improvement survey showed the house had been built in the setback. The owner contacted the office asking what could be done. When discussing the site plan with the builder, he discovered his error in measurement and explained this to the Board.

Moved-Seconded (Brady-Mickelson) motion to recommend approval of VAR #124 because it is clearly an honest error, unintended, and no harm is caused. Aye: 5, Abstain: Mattson, Nay: O'Dea. Motion Carried.

**6. RECOMMENDATION MEETING- VAR #125 10' variance from 12' side setback.**

**Owner/Representative:** Tim Rath/Bob McNeill

**Action Required:** Approval/Denial Recommendation to County Commission

**Legal Description:** Lot C-4ar of Spearfish Canyon Lot C-4, MS 1564 (Legal Shortened).

**Location:** Cheyenne Crossing

**Purpose:** Allow construction of home within two feet of side lot line

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained the lot is behind Wickiup Cabins and the entire drainfield for that business is on this lot. The creek runs through the property, leaving one area that is build-able. In order to build a residence the size he wishes, he is asking for a variance to the side setback requirement.

Moved-Seconded (Brady-Coburn) motion to recommend denial of VAR #125, as it does not meet the requirements set out in Section 5.10-Variances. Motion Carried.

**7. INFORMATIONAL MEETING- COZ #288-from PF and RC to SRD**

**Owner/Representative:** Darrell and Lois Vig

**Action Required:** Discussion/Set Public Hearing/ Set On-site

**Legal Description:** Tract C-1 Revised, Unplatted pt of Big Foot, Black Thunder and Crow Dog Lodes, and a .5 acre portion of Tract 4A, all in MS 1158 (Descriptions shortened-Not legal)

**Location:** Deer Mountain

**Purpose:** Subdivide

**Zoning:** PF & RC

**Conflicts of Interest:** None

Vogt reminded the Board this Change of Zoning option was suggested at the last meeting after Vig presented a layout plan platting one 5 +- acre "remainder" park forest zoned lot, into two lots. Maximum density requirements would not allow this so he has applied to change this lot, and a .5 +- acre Recreational Commercial zoned portion of another lot, to Suburban Residential in order to meet zoning density requirements. Approval of a Preliminary Plat showing the new lots will have to be contingent on the Change of Zoning taking affect. The Public Hearing is set for August 13, 2009.

**8. DISCUSSION- Windmill in Boulder Canyon**

**Owner/Representative:** Ronald Slezak

**Action Required:** Discussion

**Legal Description:** Lot 6, Blk 4 of Story Lane Subdivision(legal)

**Location:** Boulder Canyon

**Purpose:** Existing windmill

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt reported her discussion with Penny Slezak regarding the Windmill on their property in Boulder Canyon. She explained that before Slezak built the tower, he contacted the office to ask if a building permit was needed. At that time no permits were needed including a CUP. Vogt has talked to the neighbor who has no objection to the tower, and will write a letter stating that. She does not think it is necessary for the Slezak's to have to go through the CUP process as this windmill is a legal, non-conforming use. The Board agreed.

**9. Opportunity for Public Comment:** None

**10. Items from Planning & Zoning Board Members:** Mattson is concerned with the condition of two graves in the Two Bit area on property owned by Hander. Outka stated he had been to this site over two years ago, and they were in a state of disrepair then. Access is shown in the plat as

required. Other cemetery issues were discussed, but Vogt explained that regulations are set by the State.

Motion by Mickelson to adjourn at 4:30 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF AUGUST 13, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, August 13, 2009 at 1:30 p.m. in the County Commission Room, 90 Sherman St., Deadwood, SD, Lawrence County.

**PRESENT:** Rick Tysdal, Marty O’Dea, Barb Mattson, Bill Coburn, Bob Ewing (County Commission alternate for Daryl Johnson)

**ABSENT:** Craig Mickelson, Tom Brady, Daryl Johnson

All motions passed by unanimous vote of all members present unless otherwise noted.

Bill Coburn acted as Secretary in the absence of Craig Mickelson.

Moved-Seconded (Coburn-Mattson) to approve minutes of the meeting, July 2, 2009. Motion Carried.

Moved-Seconded (O’Dea-Ewing) to approve the amended agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** Tysdal: Plat #8, for Gilded Mountain, and items #5, 6 & 7 regarding the Spirit of the Hills Wildlife Sanctuary. Mattson: Plat #7 for David Robeson. Coburn: Items #1 & 2 for Union Resorts LLC. O’Dea: discussion item #4, and Plats #5 & 6 regarding Smokey Mountain Ranch LLC.

**PLATS IN ORDER AS LISTED**

- 1. FINAL PLAT**  
**Owner/Representative:** Frawley Ranches Inc/NJS Engineering  
**Action Required:** Approval/Denial  
**Description:** Plat of Lots 58 of Frawley Ranch East  
**Location:** North of I-90, West of Whitewood  
**Purpose:** New Lots  
**Zoning:** A-1  
**Conflicts of Interest:** None

Moved-Seconded (Coburn-Mattson) to approve the Final Plat. Motion Carried.

- 2. PRELIMINARY AND FINAL PLAT**  
**Owner/Representative:** Charles Fillmore, Kristi & Lawrence Colson/ Ponderosa Land Surveys  
**Action Required:** Approval/Denial  
**Description:** Tracts 1 and 2, sub of Mayflower #7, MS 1879, Sections 19 & 30, T5N, R1E  
**Location:** On Beaver Creek Road, off Tinton Road, close to Wyoming border.  
**Purpose:** Subdivide  
**Zoning:** PF  
**Conflicts of Interest:** None

Vogt explained the reason for this plat being Mr. Fillmore wishes to subdivide this parcel to provide a two acre parcel for his daughter. Covenants, weed plan and fire plan were provided.

Moved-Seconded (Ewing-O'Dea) to approve the Preliminary Plat. Motion Carried.

The Final Plat will be brought before the P & Z Board once the fire plan has been completed.

**3. FINAL PLAT**

**Owner/Representative:** Pillar Peak, LLC/Arleth & Associates

**Action Required:** Approval/Denial

**Description:** Plat of Lot 15, The Estates at Pillar Peak, Sec 20, T5N, R4E

**Location:** South of Hwy 14A in Boulder Canyon

**Purpose:** New Lot

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (O'Dea-Mattson) to approve the Final Plat. Motion Carried.

**4. DISCUSSION ON SMOKEY MOUNTAIN ROAD**

- **19' road surface vs. 24' road surface**
- **One way street possibility**
- **Ordinance to allow a one way street**

O'Dea abstained from discussion.

Vogt reminded the Board of their prior decision to hold approval of plats in Smokey Mountain Ranch Subdivision until they fix the road. Before the road was paved, it had a 24 foot driving surface, which is required by ordinance. Only 19 feet was paved, with the sides dropping off. The developers have proposed making this a one way road. Ordinance does not allow one way roads, and her advice to them was to request an Ordinance Amendment allowing such. Her recommendation is to deny the two plats presented, as the road issue has not been resolved. Paul Thomson, Emergency Management Director, expressed concern for emergency vehicles, if they should need to pass. Vogt read the portion of the Subdivision Ordinance Chapter 7, Section 1.3, Design Standards, stating the intent of the requirements. The Board agreed not to consider allowing one-way streets because of safety reasons.

**5. FINAL PLAT**

**Owner/Representative:** Smokey Mt Ranch LLC/Arleth & Associates

**Action Required:** Approval/Denial

**Description:** Plat of Lot 2, Smokey Mt Ranch, Sec 28, T6N, R4E

**Location:** Crook City Road

**Purpose:** New Lot

**Zoning:** SRD

**Conflicts of Interest:** Marty O'Dea

O'Dea abstained from discussion.

Moved-Seconded (Ewing-Mattson) to approve Final Plat for Lot #2 as long as access is off Crook City Road. Aye: 4. Abstain: O'Dea. Motion Carried.

6. **FINAL PLAT**  
**Owner/Representative:** Smokey Mt Ranch LLC/Arleth & Associates  
**Action Required:** Approval/Denial  
**Description:** Plat of Lot 3, Smokey Mt Ranch, Sec 28, T6N, R4E  
**Location:** Crook City Road  
**Purpose:** New Lot  
**Zoning:** SRD  
**Conflicts of Interest:** Marty O’Dea

O’Dea abstained from discussion.

The developers pulled consideration of this plat until the road issue can be resolved. Access to lot 3 is known as Blue Ridge Loop.

7. **FINAL PLAT**  
**Owner/Representative:** David Robeson/Arleth & Associates  
**Action Required:** Approval/Denial  
**Description:** Plat of Partial Vacation of Utility Easement on Lot 7, Two Bit Springs Sub, Section 1, T4N, R3E  
**Location:** Boulder Canyon (former Ruth O’Neill property)  
**Purpose:** vacate easement in order to finish the Variance process for this lot.  
**Zoning:** PF  
**Conflicts of Interest:** Barb Mattson

Barb Mattson abstained from discussion and vote.

Moved-Seconded (Ewing-Coburn) to approve Final Plat. Aye: 4. Abstain: Mattson. Motion Carried.

8. **PRELIMINARY AND FINAL PLAT**  
**Owner/Representative:** Gilded Mountain LLC/ FourFront Design  
**Action Required:** Approval/Denial  
**Description:** Plat of lots 35-A through 35-I, A replat of lot 35, Gilded Mountain Sub, Section 5, T4N, R3E  
**Location:** Off Hwy 85, south of Lead  
**Purpose:** Subdivide lot originally planned for multiple residences into nine individual lots, but does not increase approved density  
**Zoning:** SRD  
**Conflicts of Interest:** Rick Tysdal

Tysdal abstained from discussion and vote, but continued to lead the meeting.

Vogt explained this plat is to divide a previously platted “condo” lot with several residences on a common lot, for separate lot ownership. This will not increase the total density, as each residence will be built on a separate lot as apposed to the one large common lot.

Moved-Seconded (Ewing-Coburn) to approve the Preliminary Plat. Aye 4. Abstain: Tysdal. Motion Carried.

Moved-Seconded (Coburn-O’Dea) to approve the Final Plat. Aye: 4. Abstain: Tysdal. Motion Carried.

## PUBLIC HEARINGS AND INFORMATIONAL MEETINGS

Items 1 and 2 have to coincide with each other and one can not be approved without the other.

- 1. MASTER PLAN and COZ # 287 Union Resorts LLC PF, SRD and RC to PUD – (Tabled at last meeting)**  
**Owner/Representative:** Kevin Klaprodt  
**Action Required:** Approval/Denial of Master Plan and Approval/Denial of COZ #287  
**Legal Description:** Mystic Miner Tract in Sections 11, 13, 14 & 24, T4N, R2E, and Section 18, T4N, R3E (Legal Shortened)  
**Location:** Deer Mountain  
**Purpose:** Planned Unit Development  
**Zoning:** PF, RC, SRD  
**Conflicts of Interest:** Bill Coburn

Coburn abstained from discussion and vote.

Vogt explained the concept plan for this proposal was approved at the July meeting, and the next step in the new procedure is consideration of the Master Plan. She was contacted by Joe Kosel with the Deer Mt Road District, who stated he had been in negotiations with the developers, however, a district meeting could not be scheduled before this hearing. Kevin Klaprodt presented updates to the concept plan for inclusion in the Master. He explained their progress complying with the new ordinance and providing requested information. He described the twelve to twenty-four month time frame and implementation of phase one.

PROPOSERS: None

OPPOSERS: Bob Porter from Mitchell, SD, stated he owns a cabin in the area affected by Phase One, and strongly believes the County is overdeveloped.

APPLICANT: Klaprodt responded that he believes they have been prudent and responsible with the project and the plans to proceed.

PROPOSERS: None

OPPOSERS: Bob Porter questioned if the finances are available and if not, will the County end up with what may be left.

### CLOSED PUBLIC HEARING

Ted Schultz, CETEC Engineering representative, explained the plan for water lines and storage. Vogt presented the Staff recommendation of approval. She presented opposition letters from Jim, Nikki, Bob and Sherri Porter, and Tom & Kay Kassube.

Moved-Seconded (Ewing-Mattson) to recommend approval of the Master Plan of COZ #287. Aye: 4. Abstain: Coburn. Motion Carried.

Moved-Seconded (Mattson-Ewing) to recommend approval of COZ #287. Aye: 4. Abstain: Coburn. Motion Carried.

**2. ORD 09-06 - COZ #287 Union Resorts/Mystic Miners Subdivision Development Agreement Ordinance Text Addition to PUD Zoning Districts**

**Owner/Representative:** Amber Vogt/Bruce Outka

**Action Required:** Approval/Denial

**Legal Description:** Mystic Miner Tract in Sections 11,13, 14 & 24, T4N, R2E, and Section 18, T4N, R3E (Legal Shortened)

**Location:** Deer Mountain

**Purpose:** Planned Unit Development COZ Development Agreement

**Zoning:** PF, RC, SRD

**Conflicts of Interest:** Bill Coburn

Coburn abstained from discussion and vote.

Vogt explained this ordinance adds the Development Plan for Mystic Miner COZ #287 to the Zoning Ordinance. She further stated that each time a Planned Unit Development is approved, this same procedure will be followed with the development plan incorporated into the Ordinance as an ordinance amendment. Bruce Outka explained the considerations taken during the preparation of this document with respect to wording and definitions.

PROPOSERS: None

OPPOSERS: Bob Porter questioned the definition of variance as it pertains to this ordinance.

APPLICANT: Klaprodt added they took great pains to make sure the language and information is consistent between the PUD Change of Zoning #287 and this document.

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING

Moved-Seconded (Ewing-Mattson) to recommend approval of Ordinance Amendment #09-06.  
Aye: 4. Abstain: Coburn. Motion Carried.

**Items 3 and 4 have to coincide with each other, so the plat will need to be approved with the condition that the COZ be approved, if either fails than both fail.**

**3. PUBLIC HEARING - COZ #288-from PF and RC to SRD**

**Owner/Representative:** Darrell and Lois Vig

**Action Required:** Approval/Denial

**Legal Description:** Unplatted pt of Big Foot, Black Thunder and Crow Dog Lodes, and a .5 acre portion of Tract 4A, all in MS 1158 (Descriptions shortened-Not legal)

**Location:** Deer Mountain

**Purpose:** Subdivide

**Zoning:** PF & RC

**Conflicts of Interest:** None

Vogt explained the request will change the zoning of three “remainders” from previous platting, and a half acre portion of another lot. Vigs had understood when they initially started subdividing their 17+- acre parcels, that they would be allowed four lots (building rights). The

Board had agreed with Vogt's interpretation of the ordinance allowing them three. It was suggested they apply for a change of zoning that would allow greater density. The Plat is being presented also, which can only be approved if the zoning request is approved. One letter of opposition from Carl Carlson was given to the Board.

PROPOSERS: None

OPPOSERS: None

APPLICANT: No additional comment

PROPOSERS: None

OPPOSERS: None

#### CLOSED PUBLIC HEARING

Darrell Vig stated they will prepare deeds with restrictions disallowing further splitting of the tracts.

Moved-Seconded (Mattson-Coburn) to recommend approval of COZ #288. Aye: 4. Nay: O'Dea. Motion Carried.

#### 4. **PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Darrell & Lois Vig/Ponderosa Land Surveys

**Action Required:** Approval/Denial

**Legal Description:** Tract 4A-1, Big Foot Tract and Black Thunder Tract, Section 13, T4N, R2E and Section 18, T4N, R3E (Legal Shortened)

**Location:** Deer Mountain

**Purpose:** Subdivide

**Zoning:** PF & RR applying to change to SRD

**Conflicts of Interest:** None

Moved-Seconded (Mattson-Coburn) to approve the Preliminary Plat with the condition that the deed restrictions of no further subdivision be placed on the lots, and also on the condition that the Change of Zoning #288 be approved. Motion Carried.

The final plat will be considered after the weed and fire plans are completed.

#### 5. **UPDATE ON SPIRIT OF THE HILLS WILDLIFE SANCTUARY**

Tysdal abstained from discussion, but continued to lead the meeting.

Vogt requested the Sanctuary update the Board on their current operation. The amendment for CUP #255 and Development plan was also discussed.

Paul Higbee explained the voluntary closing of the facility to public tours in 2008 to raise the fences. This was not required, however the director wished to add height to the fences for added safety. During this time, the Sanctuary Board considered erecting a new building to be used as a

kennel and educational center. They reopened for school tours in May. He stressed it is not the intent to turn the Sanctuary into a zoo. It is a farm like setting, putting animal care first and people second.

**6. INFORMATIONAL MEETING- CUP AMENDMENT #255-09**

**Owner/Representative:** Spirit of the Hills Wildlife Sanctuary

**Action Required:** Discussion / Set On-site

**Legal Description:** E1/2SE1/4 AND SW1/4SE1/4, except 2.5 acres, Section 17; NW1/4NE1/4, except 2.5 acres, and the NE1/4NE1/4 of Section 20, T6N, R2E.

**Location:** Tinton Road

**Purpose:** Amend CUP to add domestic animal shelter

**Zoning:** A-1 & PF

**Conflicts of Interest:** Rick Tysdal

Tysdal abstained from discussion and vote, but continued to lead the meeting.

A map of the facilities, both present and future, was explained. Across the road is Dr. Elsom's Veterinary Clinic where he voluntarily treats only Sanctuary animals. Vogt told the Board that all requested information had been provided. Fire protection and evacuation plans were discussed. Vogt explained this portion of the meeting pertains to the CUP amendment request, which is to add a domestic animal shelter. The addition of domestic animals to the CUP was explained as a recommendation of the County Commission. Johanna Meier Della Vecchia stated that the domestic animals have always been there, with the director bring approximately 100 with him when he relocated to this facility, but the public interest was in the exotics. This is an animal sanctuary, not a pound, and they have placed over 200 dogs.

The development plan approval is needed for the Sanctuary to add buildings.

**7. DEVELOPMENT PLAN**

**Owner/Representative:** Spirit of the Hills Wildlife Sanctuary

**Action Required:** Discussion/ Set On-site

**Legal Description:** E1/2SE1/4 AND SW1/4SE1/4, except 2.5 acres, Section 17; NW1/4NE1/4, except 2.5 acres, and the NE1/4NE1/4 of Section 20, T6N, R2E.

**Location:** Tinton Road

**Purpose:** Development Plan for the Wildlife Sanctuary

**Zoning:** A-1 & PF

**Conflicts of Interest:** Rick Tysdal

Tysdal abstained from discussion, but continued to lead the meeting.

Information regarding the Development Plan was discussed at the same time as the CUP amendment, and included the facility additions, fire plans, and new sewage system. The rearrangement of pens and parking plans were explained.

An on-site tour is scheduled for August 27, 2009 at 4:00 p.m. with the County Commission included.

**8. DISCUSSION: Re-plat Trout Haven Property**

**Owner/Representative:** Todd Mastrorilli

**Action Required:** Discussion

**Location:** Hwy 385

**Purpose:** Want to break lots back into original lots in case they need to sell

**Zoning:** HSC

**Conflicts of Interest:** None

Vogt explained Mastrorilli’s request to plat the Trout Haven property back to the original two lots. The property is commercially zoned, and this action would not increase density. The Board agreed that Weed and Fire plans should be obtained and included when a plat is considered.

**9. DISCUSSION:** Form CAFO Regulation Task Force to work on new Ordinance

Suggestions were requested for the number of members and names for a Task Force to compile a document for consideration regarding CAFO regulations. A list of proposed members will be compiled and contacted, with meetings to be scheduled a later date.

**10. PUBLIC HEARING -ORD #09-04 – Lawrence County Zoning Ordinance Book changes, format changes, and re-adoption**

**Owner/Representative:** Amber Vogt

**Action Required:** Discussion/Edits/Set Special Meeting or Set Public Hearing

**Purpose:** Zoning Ordinance changes, format changes and re-adoption

Vogt reminded the Board of time frame for adoption of this Ordinance. She admits there are parts of this document that may need revised, but consideration of specific sections can be done after adoption of this document as a whole. There will be sections left as reserved for future additions.

No public comment was received and the Public Hearing was closed.

Moved-Seconded (Coburn-Ewing) to recommend approval of Ordinance 09-04. Motion Carried.

**11. Opportunity for Public Comment:** None

**12. Items from Planning and Zoning Board Members:**

The Board discussed the upcoming Western Planners Conference at the Holiday Inn, in Spearfish.

Motion by Ewing to adjourn at 4:50 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF SEPTEMBER 3, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, September 3, 2009 at 1:30 p.m. in the County Commission Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Craig Mickelson, Marty O’Dea, Barb Mattson, Daryl Johnson, Tom Brady.  
Bill Coburn arrived at 2:19.

ABSENT: None

All motions passed by unanimous vote of all members present unless otherwise noted.

Moved-Seconded (O’Dea-Mickelson) to approve minutes of the meeting, Aug 13, 2009. Motion Carried. Coburn Absent

Moved-Seconded (Johnson-Mattson) to approve the amended agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried. Coburn Absent

**Declaration of Conflicts of Interest:** Tysdal: Plats #3 & 4 for MJG Inc, Plat #5 for Cannon River Investments, and Recommendation meetings #1 & 2 for Spirit of the Hills. Brady: Plats #3 & 4 for MJG Inc.

**1. DISCUSSION: Weed Plan requirements with Dave Heck**

Dave Heck, Invasive Species Manager, presented proposed forms for use by property owners needing a “Weed Plan” when subdividing their property. He stated the prior intent of a weed plan was for major subdivisions only. Vogt explained that the major and minor designations were done away with in the revision of the subdivision ordinance. Vogt will review the forms to make sure they conform to the ordinance and they will be considered at the October meeting.

**PLATS IN ORDER AS LISTED**

**2. EXTENSION OF PRELIMINARY PLAT**

**Owner/Representative:** Lynette Moe/NJS Engineering

**Action Required:** Approval/Denial

**Legal Description:** Plat of Lots 1-9, Northern Hills Industrial Park, Sections 6, T6N, R4E (Legal Shortened)

**Location:** North of Whitewood

**Purpose:** Extend Preliminary Plat approval.

**Zoning:** C/LI

**Conflicts of Interest:** None

Vogt explained no final plats have been presented, and the preliminary will expire without Board re-approval.

Moved-Seconded (Brady-Mickelson) to extend approval of the Preliminary Plat for two years. Aye: 6, Absent: Coburn. Motion Carried.

3. **FINAL PLAT**  
**Owner/Representative:** MJG Inc/NJS Engineering  
**Action Required:** Approval/Denial  
**Description:** Lot 17 Blk 1, Wild Turkey Estates  
**Location:** West of Spearfish  
**Purpose:** New Lot  
**Zoning:** PF & A-1  
**Conflicts of Interest:** Tysdal, Brady

Moved-Seconded (O'Dea-Mickelson) to approve the Final Plat. Aye: 4. Absent: Coburn. Abstain: Tysdal, Brady. Motion Carried.

4. **FINAL PLAT**  
**Owner/Representative:** MJG Inc/NJS Engineering  
**Action Required:** Approval/Denial  
**Description:** Lot 25 Blk 1, Wild Turkey Estates  
**Location:** West of Spearfish  
**Purpose:** New Lot  
**Zoning:** PF & A-1  
**Conflicts of Interest:** Tysdal, Brady

Moved-Seconded (Mickelson-Mattson) to approve the Final Plat. Aye: 4. Absent: Coburn. Abstain: Tysdal, Brady. Motion Carried

5. **FINAL PLAT**  
**Owner/Representative:** Cannon River Investments/ NJS Engineering  
**Action Required:** Approval/Denial  
**Description:** Lots 9, 10, 11 & 18, Blk 3, Lots 1,2,3,4,8 & 9, Blk 5, Lots 1-8 Blk 6, Lot 1 Blk 7, The Timbers  
**Location:** Off Tinton Road  
**Purpose:** New Lots  
**Zoning:** PF  
**Conflicts of Interest:** Tysdal

Moved-Seconded (Mickelson-Brady) to approve the Final Plat with the condition that the City of Spearfish fire chief have a chance to confirm the operation of the dry hydrant located in the dam. Aye: 5. Absent: Coburn. Abstain: Tysdal. Motion Carried.

6. **PRELIMINARY AND FINAL PLAT**  
**Owner/Representative:** Homestake Mining Co/ Julie Stone / Ponderosa Land Surveys  
**Action Required:** Approval/Denial  
**Description:** Lots KR1, KR2, KR3 & KR4 from multiple Lodes, in Section 4, T4N, R3E.  
**Location:** Kirk Road  
**Purpose:** Plat road right-of-way  
**Zoning:** I-1 and PF  
**Conflicts of Interest:** None

Moved-Seconded (Brady-Mattson) to approve the Preliminary Plat. Aye: 6. Absent: Coburn. Motion Carried.

Moved-Seconded (Brady-Mattson) to approve the Final Plat. Aye: 6. Absent: Coburn. Motion Carried.

Plat will go to County Commission on September 15, 2009.

**7. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Joe & Marcia Mack / Dale Mack / Ponderosa Land Surveys

**Action Required:** Approval/Denial

**Description:** Lots C & D sub of Lot 2 of Tract 3, Sub of HES 242, in Section 25-3-1, and 30-3-2

**Location:** On Rapid Creek Road, far southwestern corner of the County.

**Purpose:** Subdivide

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (Brady-Mattson) to approve the Preliminary Plat. Aye: 6. Absent: Coburn. Motion Carried.

The Final Plat will be considered when the Fire Plan has been completed.

**8. LAYOUT PLAN**

**Owner/Representative:** Les Auer

**Action Required:** Discussion

**Description:** Possibly Lot A and Lot B of Section 30, T6N, R4E.

**Location:** Crook City Road

**Purpose:** To do estate planning and break off 20 acres with the current CUP operation in order to give it to his son, the remainder of the property will be divided between the other kids

**Zoning:** A-1

**Conflicts of Interest:** None

Auer explained he is working on estate planning, and wishes to plat acreage to allow division of property. He presented a layout of his request, and the Board had no issues with the plan. He will proceed with platting.

**PUBLIC HEARINGS AND INFORMATIONAL MEETINGS**

**1. RECOMMENDATION MEETING- CUP AMENDMENT #255-09**

**Owner/Representative:** Spirit of the Hills Wildlife Sanctuary

**Action Required:** Recommendation to Commission

**Legal Description:** E1/2SE1/4 AND SW1/4SE1/4, except 2.5 acres, Section 17; NW1/4NE1/4, except 2.5 acres, and the NE1/4NE1/4 of Section 20, T6N, R2E.

**Location:** Tinton Road

**Purpose:** Amend CUP to add domestic animal shelter

**Zoning:** A-1 & PF

**Conflicts of Interest:** Tysdal

Tysdal abstained from discussion and vote, but continued to chair the proceedings.

Vogt explained this amendment is requesting the addition of domestic animals shelter. She presented possible changes in conditions which have been reviewed and addressed by the Sanctuary. Bruce Outka added the Sheriff's office has been formulating recommendations for the evacuation procedures, hopefully to be completed by the County Commission meeting. Vogt has discussed septic system and building plans with the contractor, Dan Erskin. Paul Higbee explained the need for this facility to provide for domestic animals. He stated most are overflow from shelters. If the animal is suitable to be adopted out, they are accepted. The education provided explains how to take care of animals humanely, whether a dog or lion.

Moved-Seconded (Brady Mickelson) to recommend approval with the changes and additions to the original conditions: #3; to state comply with 2006 International Building Code and all structures shall be built with fire resistant materials. #4; strike the words "found to" and insert the word "shall". #5; Strike the words "Health Department" and add "Planning and Zoning Department". #7; Delete. #8; Delete. #22; delete reference to date of evacuation plan, and replace the wording "most recent evacuation plan as presented at the County Commission Meeting". Ten additional conditions are also recommended. Aye: 6, Abstain: Tysdal. Motion Carried.

**2. RECOMMENDATION MEETING –DP 09-03 Wildlife Sanctuary**

**Owner/Representative:** Spirit of the Hills Wildlife Sanctuary

**Action Required:** Recommendation to Commission

**Legal Description:** E1/2SE1/4 AND SW1/4SE1/4, except 2.5 acres, Section 17; NW1/4NE1/4, except 2.5 acres, and the NE1/4NE1/4 of Section 20, T6N, R2E.

**Location:** Tinton Road

**Purpose:** Development Plan for the Wildlife Sanctuary

**Zoning:** A-1 & PF

**Conflicts of Interest:** Tysdal

Tysdal abstained from discussion and vote, but continued to chair the proceedings.

The Development Plan was presented including a facility report of parking, waste water system, drinking water system, and new educational building. Vogt explained the Sanctuary met all requirements. Coburn asked if Fire Mitigation plans are part of the Plan. Vogt stated it is not a requirement, however, the Board could ask that it be added. Brady agreed that fire safety be added to the plan.

Moved-Seconded (Brady-Coburn) to recommend approval of the Development Plan with the addition of a Fire Plan prepared by Rob Mattox. Aye: 6, Abstain: Tysdal. Motion Carried.

**3. INFORMATIONAL MEETING-CUP #381 – SECOND RESIDENCE**

**Owner/Representative:** Ellen Reddick, Tara Reddick, Roy Lindbloom

**Action Required:** Discussion/Set On-Site/ Set Hearing Date

**Legal Description:** SW1/4NW1/4, Section 7, T7N, R3E

**Location:** St Onge

**Purpose:** Second Residence on 40 acre tract for family member

**Zoning:** A-1

**Conflicts of Interest:** None

Vogt explained this request is for a second residence for family members to help on the ranch. No on-site viewing was needed, and a public hearing was set for October 1, 2009.

4. **DISCUSSION: CAFO Regulation Task Force 1<sup>st</sup> Meeting**

Vogt stated the first meeting of the CAFO regulation task force will be on October 20. The members are: Rick Tysdal, Amber Vogt, Bruce Outka, Bob Ewing, Paul Baker, Richard Sleep, Doug Lindgren, Ron Niesent, and Tom Quinn. This Task Force will be approved at the September 15, 2009 County Commission meeting.

5. **DISCUSSION: Spearfish Canyon Homeowner’s Association**

Tysdal explained Amber had brought the matter before the Board about one year ago, regarding the requirement of approval by SCOA’s architectural review committee prior to issuance of a Building Permit. The Board’s concern was that no other HOA is afforded this action. The Board recommended to the County Commission, that this policy be stopped. The Commission voted to continue this requirement. At that time it was decided to discuss this requirement annually. Brady suggested wording be added to building permit applications regarding HOA requirements. He is in favor of supporting Homeowners Associations. Vogt prefers a statement regarding County rules being just that, and covenants or homeowner association restrictions being more stringent. Jim Nelson explained SCOA is required by, Federal directive, to protect Spearfish Creek.

6. **Opportunity for Public Comment: None**

7. **Items from Planning and Zoning Board Members:**

Amber asked for clarification on covenant wording required for platting. She asked for a set of minimum standards, and an example of covenants to be available for those who ask.

Motion by Ewing to adjourn at 4:50 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF OCTOBER 1, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, October 1, 2009 at 1:30 p.m. in the County Commission Room, 90 Sherman St., Deadwood, SD, Lawrence County.

**PRESENT:** Rick Tysdal, Marty O’Dea, Barb Mattson, Daryl Johnson, Tom Brady.

**ABSENT:** Craig Mickelson, Bill Coburn

All motions passed by unanimous vote of all members present unless otherwise noted.

Moved-Seconded (O’Dea-Brady) to appoint Daryl Johnson as acting Secretary. Motion Carried.

Moved-Seconded (O’Dea-Mattson) to approve minutes of the meeting, Sept 3, 2009. Motion Carried.

Moved-Seconded (Brady-Mattson) to approve the amended agenda with the following change: Move “Items from Planning and Zoning Board Members” to the end of the meeting. Motion Carried.

**Declaration of Conflicts of Interest:** O’Dea: Plats #4 & #5, Smokey Mountain Ranch.

**PLATS IN ORDER AS LISTED**

1. **FINAL PLAT**  
**Owner/Representative:** Charles Fillmore, Kristi & Lawrence Colson/ Ponderosa Land Surveys  
**Action Required:** Sign Final Plat as Fire Plan is complete  
**Description:** Tracts 1 and 2, sub of Mayflower #7, MS 1879, Sections 19 & 30, T5N, R1E  
**Location:** On Beaver Creek Road, off Tinton Road, close to Wyoming border.  
**Purpose:** Subdivide  
**Zoning:** PF  
**Conflicts of Interest:** None  
  
Vogt stated she received a fire plan completion letter from Rob Mattox.  
  
Moved-Seconded (O’Dea-Mattson) to approve Final Plat. Motion Carried.
  
2. **LAYOUT PLAN**  
**Owner/Representative:** Steve & Nadine Runquist / Ponderosa Land Surveys  
**Action Required:** Discussion/Set Onsite  
**Description:** Lots A-1A, A-2A & A-3, Sub of Lots A-1 & a-2 of Lot A & Remainder of lot A of Lot 1 of the Sub of Lots 1-5, in numerous Mineral Surveys, in Sections 3,4,9 & 10, T4N, R3E. (Legal shortened)  
**Location:** Off Wasp Road and Yellow Creek Road, South of Lead  
**Purpose:** Lot line change  
**Zoning:** PF  
**Conflicts of Interest:** None

Vogt explained this three lot plat is moving lot lines and platting a Remainder, not increasing density. The Board agreed they had no issues with this plan.

**3. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** James Halling and others / Arleth & Associates.

**Action Required:** Approval/Denial

**Description:** Lots 3A-1 & 3B-1 & Tract 1A, Sections 11,12,13 & 14, T4N, R3E (Legal Shortened)

**Location:** Strawberry Hill Lane off Hwy 385

**Purpose:** Incorporating two lots into three adjacent lots resulting in three larger lots.

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this plat is combining five previously platted lots, into three.

Moved-Seconded (Brady-O’Dea) to approve the Preliminary Plat. Motion Carried.

Moved-Seconded (Brady-O’Dea) to approve the Final Plat. Motion Carried.

**4. FINAL PLAT**

**Owner/Representative:** Smokey Mt Ranch LLC/Arleth & Associates

**Action Required:** Approval/Denial

**Description:** Plat of Lot 9, Smokey Mt Ranch, Sec 28 & 33, T6N, R4E

**Location:** Crook City Road

**Purpose:** New Lot

**Zoning:** SRD

**Conflicts of Interest:** O’Dea

O’Dea abstained from discussion and vote.

Amber reminded the Board of the requirement for Smokey Mountain Ranch subdivision to widen the driving surface of Blue Ridge Loop, before any final plats would be approved. Dick Birk, Hwy Supt, has approved the completion of the work.

Moved-Seconded (Brady-Johnson) to approve the Final Plat. Aye: 4, Absent: Mickelson, Coburn, Abstain: O’Dea. Motion Carried.

**5. FINAL PLAT**

**Owner/Representative:** Smokey Mt Ranch LLC/Arleth & Associates

**Action Required:** Approval/Denial

**Description:** Plat of Lot 3, Smokey Mt Ranch, Sec 28 & 33, T6N, R4E

**Location:** Crook City Road

**Purpose:** New Lot

**Zoning:** SRD

**Conflicts of Interest:** O’Dea

O’Dea abstained from discussion and vote.

Amber reminded the Board of the requirement for Smokey Mountain Ranch subdivision to widen the driving surface of Blue Ridge Loop, before any final plats would be approved. Dick Birk, Hwy Supt, has approved the completion of the work

Moved-Seconded (Brady-Johnson) to approve the Final Plat. Aye: 4, Absent: Mickelson, Coburn, Abstain: O'Dea. Motion Carried.

6. **PRELIMINARY PLAT**  
**Owner/Representative:** Les Auer/Arleth & Associates  
**Action Required:** Approval/Denial  
**Description:** Tracts A and B of the Auer Subdivision, consisting of Govt Lots 2, 3 and the SE ¼ NW ¼ of Section 30, T6N, R4E.  
**Location:** Crook City Road  
**Purpose:** New lot/platting of Govt Lots/platting remainders  
**Zoning:** A-1  
**Conflicts of Interest:** None

Moved-Seconded (O'Dea-Mattson) to approve the Preliminary Plat. Motion Carried.

## **PUBLIC HEARINGS AND INFORMATIONAL MEETINGS**

1. **PUBLIC HEARING-CUP #381 – SECOND RESIDENCE**  
**Owner/Representative:** Ellen Reddick, Tara Reddick, Roy Lindbloom  
**Action Required:** Recommendation of Approval or Denial  
**Legal Description:** SW1/4NW1/4, Section 7, T7N, R3E  
**Location:** St Onge  
**Purpose:** Second Residence on 40 acre tract for family member  
**Zoning:** A-1  
**Conflicts of Interest:** None

Vogt explained the location and request for an additional residence (a mobile home), on the same 40 acre A-1 tract. The Reddick property totals more than 2000 acres, and their request will enable family members to live on the place to assist with daily ranch work. There is currently 2 residences on this property that were previously allowed under the old Ordinances.

PROPOSERS: None

OPPOSERS: None

APPLICANT: Nothing Further

PROPOSERS: None

OPPOSERS: None

CLOSED PUBLIC HEARING

Moved-Seconded (Brady-Johnson) to recommend approval of CUP #381. Motion Carried.

The following two items, CUP #382 & #383 are from the same applicant, for the same use, although in different locations, and the Board agreed to discuss both at the same time.

2. **INFORMATIONAL MEETING- CUP #382-COMMUNICATION TOWER**  
**Owner/Representative:** Ryther/Quaschnick/Alltel Communications/Faulk & Foster  
**Action Required:** Discussion/Set Public Hearing/ Set On-site  
**Shortened Legal Description:** Lot 5 in Section 11, T3N, R3E.  
**Location:** Custer Peak Road off HWY 385 South  
**Purpose:** Wireless Facility (Communication Tower)  
**Zoning:** PF  
**Conflicts of Interest:** None

Lee Marvin, representing Faulk & Foster, explained the reason for both requests was because of lack of cell phone coverage. He explained the towers will be available for co-location. Brady asked for a condition pertaining to co-location being authorized and facilitated. A hearing was set for November 5, 2009.

3. **INFORMATIONAL MEETING- CUP #383 COMMUNICATION TOWER**  
**Owner/Representative:** Thorstenson-Benson Limited Partnership/Alltel Communications/Faulk & Foster  
**Action Required:** Discussion/Set Public Hearing/ Set On-site  
**Shortened Legal Description:** Lot 6 except Highway Lots in Sections 15 & 22, T3N, R5E.  
**Location:** Off Vanocker Canyon Road  
**Purpose:** Wireless Facility (Communication Tower)  
**Zoning:** PF  
**Conflicts of Interest:** None

See discussion for item #2 CUP #382 above.

4. **INFORMATIONAL MEETING- CUP #384 TRAIL RIDES**  
**Owner/Representative:** Andrew Holmes/Union Resorts  
**Action Required:** Discussion/Set Public Hearing/ Set On-site  
**Description:** MS 1158, On Time Lode #2 (part of Mystic Miner Tract)  
**Location:** Deer Mt.  
**Purpose:** Trail Rides  
**Zoning:** PUD  
**Conflicts of Interest:** None

Vogt explained Holmes has discontinued his trail rides at Custer Crossing, and that CUP has been cancelled. He provided trail rides at Deer Mountain in the past, and got approval from Union Resorts to provide this service on Mystic Miner Tract. The Public Hearing will be held November 5, 2009.

5. **DISCUSSION:**

**Weed Plan Requirements:**

Vogt explained some of the problems with the weed plan requirements. She, Bruce Outka and Dave Heck have been discussing when a plan is needed and when it is not. Heck's opinion is that plan approval at the preliminary plat stage is not appropriate as ground disturbance issues have not come to light. No solution has been proposed as yet. The Board suggested asking Heck and any members of the Weed Board who wish, attend the November meeting to discuss ideas.

8. **Opportunity for Public Comment:** None

**9. Items from Planning and Zoning Board Members:**

Discussed were presentations at the Western Planners conference including Wildland/Urban Interface, and fire wise procedures. Also expressed was concern of a bad corner on the Crook City Road.

Motion by Brady to adjourn at 2:45 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF November 5, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, November 5, 2009 at 1:30 p.m. in the County Commission Room, 90 Sherman St., Deadwood, SD, Lawrence County.

**PRESENT:** Rick Tysdal, Marty O’Dea, Barb Mattson, Daryl Johnson, Craig Mickelson, Bill Coburn, Tom Brady.

**ABSENT:** None

All motions passed by unanimous vote of all members present unless otherwise noted.

Moved-Seconded (Mattson-O’Dea) to approve minutes of the meeting, October 1, 2009. Motion Carried.

Moved-Seconded (Mickelson-Johnson) to approve the amended agenda with the following changes:

- 1. Move “Items from Planning and Zoning Board Members” to the end of the meeting.
- 2. Approve request to table Plat #3 for Steve & Nadine Runquist.
- 3. Pull consideration of Plat #9 for Herb Haist as requested by owner.

Motion Carried.

**Declaration of Conflicts of Interest:** Tysdal and Brady: Plat #6 for Gilded Mountain LLC.

**DISCUSSION:**

Weed Plan Requirement Options with Dave Heck and Invasive Species Board

Vogt stated she had received no response to her reminder calls to Dave Heck regarding the Board’s request of him and Weed Board members to attend today’s meeting to discuss ordinance requirements for weed plans.

**PLATS IN ORDER AS LISTED**

- 1. **FINAL PLAT**  
**Owner/Representative:** Dwight Ahlers/Andersen Engineering  
**Action Required:** Approval/Denial  
**Description:** Lot 9, Spruce Mt. Estates No.2, Section 24, T6N, R4E,  
**Location:** Whitewood  
**Purpose:** New lot  
**Zoning:** PF  
**Conflicts of Interest:** None

Moved-Seconded (Mickelson-O’Dea) to approve the Final plat. Motion Carried.

- 2. **FINAL PLAT**  
**Owner/Representative:** Kent Marshall, Richard Thornton / NJS Engineering  
**Action Required:** Approval/Denial

**Description:** Lot VJ-2A & VJ-3 of Venus & Jupiter Lodes in MS 1209, Section 13. T4N, R2E. (legal shortened)

**Location:** East of Deer Mountain off of Terry Summit Road

**Purpose:** Move Lot Lines

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained this exempt plat is moving an interior lot line to correct a setback shortage found after building.

Moved-Seconded (Johnson-Mattson) to approve the Final Plat. Motion Carried.

**3. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Steve & Nadine Runquist / Ponderosa Land Surveys

**Action Required:** Approval/Denial

**Description:** Lots A-1A, A-2A & A-3, Sub of Lots A-1 & a-2 of Lot A & Remainder of lot A of Lot 1 of the Sub of Lots 1-5, in numerous Mineral Surveys, in Sections 3,4,9 & 10, T4N, R3E. (Legal shortened)

**Location:** Off Wasp Road and Yellow Creek Road, South of Lead

**Purpose:** Lot lines change & plat remainder

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (O’Dea-Johnson) to table this plat as requested by the property owner. Motion Carried.

**4. PRELIMINARY AND FINAL PLAT**

**Owner/Representative:** Homestake, Jerry Cotton, George Thoresen / Ponderosa Land Surveys

**Action Required:** Approval/Denial

**Description:** Tract C-1 and Tract D, Section 28, T5n, R3E (legal shortened)

**Location:** Blacktail Gulch

**Purpose:** Combine three lots into two

**Zoning:** SRD

**Conflicts of Interest:** None

Julie Stone, representing Homestake Mining Company, explained the reason for this plat being to clean up some “remainders” prior to transfer of ownership of that property to adjoining land owners.

Moved-Seconded (Brady-Coburn) to approve the Preliminary Plat. Motion Carried.

Moved-Seconded (Brady-Coburn) to approve the Final Plat. Motion Carried.

**5. LAYOUT PLAN**

**Owner/Representative:** Kenneth O’Neill / Ponderosa Land Surveys

**Action Required:** Discussion

**Description:** Tract 1A & 1B, Blk 3, Deer Mt Resort Dev #3

**Location:** Deer Mountain

**Purpose:** Subdivide

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt explained this plat request is for land that was previously three lots, re-platted into one lot to allow building a residence of a size requested to meet setback requirements and at the same time not building over lot lines. The property is serviced with a centralized water system, but not a centralized sewage system. The owner asked that conditional approval be considered so if, in the future, central sewer was available, the lot would be conforming. The Board did not voice approval of this request, and stated they would not consider approval of such a plat.

6.

**FINAL PLAT**

**Owner/Representative:** Gilded Mountain / Four Front Design

**Action Required:** Approval/Denial

**Description:** Lot 29R & 31, Gilded Mountain Subdivision.

**Location:** Hwy 85 S

**Purpose:** Re-plat one lot, and One new lot

**Zoning:** SRD

**Conflicts of Interest:** Tysdal, Brady

Tysdal and Brady abstained from discussion and vote. With the Board's approval, Tysdal continued to Chair the meeting.

Vogt explained this plat was for one new lot and a re-plat of a lot. The re-plat of lot 29 included a portion of common space. She has advised the owner that no further platting would be allowed until such time the board reviewed and approved a new preliminary plat, showing all current platted lots and new areas of common space, as well as any changes in designs for sewage systems. Scot Munro, representing Gilded Mountain LLC, agreed.

Moved-Seconded (Mickelson-Coburn) to approve the Final plat. Aye: 5. Abstain: 2. Motion Carried.

7.

**FINAL PLAT**

**Owner/Representative:** HES 125 Partners LLC / Four Front Design

**Action Required:** Approval/Denial

**Description:** Lot 1 Blk 1, Ironwood Estates

**Location:** Lead Country Club

**Purpose:** New Lot

**Zoning:** SRD

**Conflicts of Interest:** None

Vogt explained this lot was being raffled off by the Country Club to raise money, but when they asked the Commission for approval to raffle, the research showed that they could not legally raffle a lot that did not exist, therefore the lot needed to be platted.

Moved-Seconded (Brady-Coburn) to approve the Final plat. Motion Carried.

8.

**FINAL PLAT**

**Owner/Representative:** Les Auer/Arleth & Associates

**Action Required:** Approval/Denial

**Description:** Tracts A and B of the Auer Subdivision, consisting of Govt Lots 2, 3 and the SE ¼ NW ¼ of Section 30, T6N, R4E.

**Location:** Crook City Road

**Purpose:** New lot/platting of Govt Lots/platting remainders

**Zoning:** A-1  
**Conflicts of Interest:** None

This plat will allow the original CUP to sit on it's own lot, as well as fix the issue of two residences sitting on these lots and platting remainders.

Moved-Seconded (Mickelson-O'Dea) to approve the Final plat. Motion Carried.

**9. LAYOUT PLAN**

**Owner/Representative:** Herb Haist / Arleth & Associates  
**Action Required:** Approval/Denial  
**Description:** Lots 3A-1, 3A-2, 3A-3 & 3A-4 in Section 13, T5N, R3E (legal shortened)  
**Location:** Whitewood Creek Road  
**Purpose:** Subdivide  
**Zoning:** PF  
**Conflicts of Interest:** None

This plat was pulled from the agenda prior to the meeting by the property owner.

**10. PRELIMINARY AND FINAL PLAT (Written Administrative Review by City of Sturgis, Rick Bush because it is within the 3 Mile Platting Jurisdiction)**

**Owner/Representative:** Apple Springs Inc / CETEC  
**Action Required:** Approval/Denial  
**Description:** Lots 6 thru 22 blk 15, lots 1-18 blk 16, Well Lot 1 and Tank Lot 1, Apple Springs Subdivision  
**Location:** Boulder Canyon  
**Purpose:** New Lots  
**Zoning:** SRD  
**Conflicts of Interest:** None

Vogt explained this plat can not be considered by this Board, as the City of Sturgis has exercised their 3-mile platting jurisdiction authority, and this property is in this area. She has been working with the Sturgis Planning director to understand the procedure. At this time, all plats in this 3-mile area will be considered by Sturgis. Board member and County Commissioner Johnson explained what had occurred at the County Commission meeting regarding an agreement presented by Sturgis for consideration, and rejected by the County to exclude the Boulder Canyon portion from the platting jurisdiction.

Vogt explained the plat had to be pulled from the agenda, and the fee has been returned.

**PUBLIC HEARINGS AND INFORMATIONAL MEETINGS**

**1. PUBLIC HEARING- CUP #382-COMMUNICATION TOWER**

**Owner/Representative:** Ryther/Quaschnick/Alltel Communications/Faulk & Foster

**Action Required:** Approval/Denial

**Shortened Legal Description:** Lot 5 in Section 11, T3N, R3E.

**Location:** Custer Peak Road off HWY 385 South

**Purpose:** Wireless Facility (Communication Tower)

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained that Faulk & Foster representative, Ralph Wyngarden, asked that this hearing be tabled until the next meeting. The property owners also asked that this be tabled so that they can work with Alltel to possibly come to a conclusion on a better location for the tower. The Chairman asked if there was anyone in the audience present for this hearing. There was no one.

Moved-Seconded (Mickelson-Johnson) to Table the hearing and consideration of CUP #382 until the December 3<sup>rd</sup> meeting. Motion Carried.

**2. PUBLIC HEARING- CUP #383 COMMUNICATION TOWER**

**Owner/Representative:** Thorstenson-Benson Limited Partnership/Alltel Communications/Faulk & Foster

**Action Required:** Approval/Denial

**Shortened Legal Description:** Lot 6 except Highway Lots in Sections 15 & 22, T3N, R5E.

**Location:** Off Vanocker Canyon Road

**Purpose:** Wireless Facility (Communication Tower)

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained the proposed location for this request. She said she had gotten one call from one neighbor asking about the height and lighting plans. Ralph Wyngarden spoke on behalf of Alltel Communications and explained this tower was to improve coverage in the Nemo area and there would be no lights on the tower.

OPPONENTS: Jim Fettig, adjacent land owner, explained this tower would be visible directly out his window, 500 to 600 yards from his house. He is concerned with light, noise and service that close, and asked why the tower could not be constructed up the road out of view of all the neighbors?

PROPONENTS: None

Applicant: Wyngarden stated there would be no lighting on this tower. Close proximity to a tower did not hinder service, and placement was picked to allow the best coverage in the area.

OPPONENTS: None

PROPONENTS: None

**CLOSED PUBLIC HEARING**

Board members discussed the number of cell towers in the area, and co-locator conditions. They also discussed locations of towers for the best service, and the possibility of camouflage requirements. Brady asked for engineering data regarding the height and location.

Moved-Seconded (Mickelson-Mattson) to table the decision on CUP #383 and set an onsite inspection for November 16 at 3:00 pm at the site. Motion Carried.

3. **PUBLIC HEARING- CUP #384 TRAIL RIDES**  
**Owner/Representative:** Andrew Holmes/Union Resorts  
**Action Required:** Approval/Denial  
**Description:** MS 1158, On Time Lode #2 (part of Mystic Miner Tract)  
**Location:** Deer Mt.  
**Purpose:** Trail Rides  
**Zoning:** PUD  
**Conflicts of Interest:** None

Andy Holmes provided a map of the trails. Vogt stated she had received no calls regarding this request.

OPPONENTS: None

PROPONENTS: None

Applicant: No additional comment.

OPPONENTS: None

PROPONENTS: None

CLOSED PUBLIC HEARING

Moved-Seconded (Coburn-Johnson) to recommend approval of CUP #384. Motion Carried.

4. **DISCUSSION:** Covenant content and language

Bill Coburn provided a proposal with wording from the County Wildfire Protection Plan for the Board's consideration.

Also discussed was the need for Wildfire assessment training.

Moved-Seconded (O'Dea-Mickelson) to make recommendation to the County Commission that the County sponsor a class titled Assessing Wildfire Hazards in the Ignition Zone. Motion Carried.

Also discussed was training being completed by Jeff Schroeder, Deputy Director and Code Enforcement Officer.

Moved-Seconded (Brady-Coburn) to recommend the County Commission allow the closure of the P&Z office on Meeting day afternoons, to allow Jeff Schroeder to attend the P&Z Meetings. Motion Carried.

10. **Opportunity for Public Comment:** None

11. **Items from Planning and Zoning Board Members:**

Daryl Johnson explained the discussion and decisions made at the County Commission meeting regarding the Sturgis 3-mile platting jurisdiction.

Motion by Mickelson to adjourn at 4:00 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY

**LAWRENCE COUNTY PLANNING & ZONING COMMISSION**

MINUTES OF December 3, 2009

REGULAR MEETING

Chairman Rick Tysdal called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, December 3, 2009 at 12:30 p.m. in the County Commission Room, 90 Sherman St., Deadwood, SD, Lawrence County.

PRESENT: Rick Tysdal, Marty O’Dea, Daryl Johnson, Bill Coburn.

ABSENT: Craig Mickelson, Barb Mattson, Tom Brady

All motions passed by unanimous vote of all members present unless otherwise noted.

Moved-Seconded (O’Dea-Coburn) to appoint Daryl Johnson acting secretary. Motion Carried

Moved-Seconded (Coburn-Johnson) to approve minutes of the meeting, November 5, 2009. Motion Carried.

Moved-Seconded (Coburn-O’Dea) to approve the amended agenda with the following changes:

- 4. Move “Items from Planning and Zoning Board Members” to the end of the meeting.
- 5. Correct the legal description of Plat #5-Layout plan to read Lot A-1 and A-2.

Motion Carried.

Declaration of Conflicts of Interest: Tysdal: Plats #2 & #3 both for Gilded Mountain LLC.

**INFORMATIONAL MEETINGS**

**1. INFORMATIONAL MEETING- CUP #385 Ted Bergan/Sand Creek Landscaping**

**Owner/Representative:** Ted Bergan

**Action Required:** Discussion

**Description:** Lot Z of Lot 1 of the NE ¼ NW ¼ of Section 16, T6N, R2E.

**Location:** Tinton Road

**Purpose:** Holding yard for nursery and landscaping business

**Zoning:** RR

**Conflicts of Interest:** None

Vogt explained the location and circumstances surrounding the application. She stated that she had gotten a call regarding activity on this property, and discussed it with Mr. Bergan. At that time, she determined this use qualified as a home occupation. Later, a complaint was received from a neighbor regarding traffic and activities on this property. Mr. Bergan was called and came in to explain what he was doing, and applied for a CUP. The Board decided they would individually view this property and surrounding area before the Public Hearing on Jan 7, 2010.

**2. INFORMATIONAL MEETING- CUP #386 Jim and Tamara Montieth/Riding Arena**

**Owner/Representative:** Jim and Tamara Montieth

**Action Required:** Discussion

**Description:** A portion of Section 10, T6N, R3E.

**Location:** St. Onge Road

**Purpose:** Arena to offer riding lessons

**Zoning:** A-1

**Conflicts of Interest:** None

Vogt explained the Montieth's application came from discussion regarding their wish to provide riding education to friends with no intention of charging, however may also hold some events. Vogt felt it would be prudent to apply for a CUP in case the circumstances changed and they should start charging for instruction or events. No onsite inspection was scheduled and the Public Hearing will be held January 7, 2010.

3. **INFORMATIONAL MEETING- CUP #387 Monica Ell/Yoga and Massage Studio**  
**Owner/Representative:** Kasey Campbell owner/ Monica Ell applicant  
**Action Required:** Discussion  
**Description:** Lot A of SE1/4SW1/4, Section 15-6-2  
**Location:** Spearfish  
**Purpose:** Home Based Business to include Yoga and Massage  
**Zoning:**  
**Conflicts of Interest:** None

Vogt explained the location of the property and the applicants request for a home based business expansion to include massage and yoga, with the possibility of increased vehicle parking, and the addition of a sign. No onsite inspection was scheduled and the Public Hearing will be held January 7, 2010.

#### PLATS IN ORDER AS LISTED

1. **PRELIMINARY AND FINAL PLAT**  
**Owner/Representative:** Jo Dickert/Deidra Larson/Coletta Tree Farm/Ponderosa Land Surveys  
**Action Required:** Approval/Denial  
**Description:** Tracts 1 & 2 sub of lodes in MS 1867 & 376 and 66' easement, Sec 9-4-4 (legal shortened)  
**Location:** Off Galena Road  
**Purpose:** move lot line and provide access  
**Zoning:** PF  
**Conflicts of Interest:** None

Vogt explained this plat is a result of access litigation, moves a connecting lot line between two lodes, and provides access.

Moved-Seconded (O'Dea-Johnson) to approve the Preliminary Plat. Motion Carried.

Moved-Seconded (Coburn-O'Dea) to approve the Final Plat. Motion Carried.

2. **REVISED PRELIMINARY PLAT**  
**Owner/Representative:** Gilded Mountain LLC/FourFront Design Inc.  
**Action Required:** Approval/Denial  
**Description:** Revised Prelim of Gilded Mt Sub,  
**Location:** Off US Hwy 85/14A  
**Purpose:** Changes from original Preliminary Plat.  
**Zoning:** SRD  
**Conflicts of Interest:** Tysdal

Tysdal abstained from discussion and vote, but, at the approval of the Board, continued to conduct the meeting.

Vogt explained Gilded Mountain had been making some minor changes when final platting, which was decreasing open space. She had requested a Revised Preliminary Plat. Scot Munro stated this plat shows less than one tenth of an acre change in open space from the original.

Moved-Seconded (Coburn-Johnson) to approve the Revised Preliminary Plat. Aye: 3, Tysdal abstained. Motion Carried.

**3. FINAL PLAT**

**Owner/Representative:** Gilded Mountain LLC/FourFront Design Inc.

**Action Required:** Approval/Denial

**Description:** Plat of Lot 32

**Location:** Off US Hwy 85/14A

**Purpose:** One new lot

**Zoning:** SRD

**Conflicts of Interest:** Tysdal

Tysdal abstained from discussion and vote, but, at the approval of the Board, continued to conduct the meeting.

Moved-Seconded (Johnson-Coburn) to approve the Final Plat. Aye: 3, Tysdal abstained. Motion Carried.

**4. PRELIMINARY AND FINAL PLAT (tabled at November meeting)**

**Owner/Representative:** Steve & Nadine Runquist / Ponderosa Land Surveys

**Action Required:** Approval/Denial

**Description:** Lots A-1A, A-2A & A-3, Sub of Lots A-1 & a-2 of Lot A & Remainder of lot A of Lot 1 of the Sub of Lots 1-5, in numerous Mineral Surveys, in Sections 3,4,9 & 10, T4N, R3E. (Legal shortened)

**Location:** Off Wasp Road and Yellow Creek Road, South of Lead

**Purpose:** Lot lines change & plat remainder

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (Coburn-Johnson) to continue the tabling of this plat until the January 7, 2010 meeting per the owners request. Motion Carried.

**5. LAYOUT PLAN**

**Owner/Representative:** Scott Bartlowe/Charlotte Cracco/Arleth & Associates

**Action Required:** Discussion

**Description:** Lot A-1 and Lot A-2 of Lot A of the Anna Fredericksen Homestead, Section 27 and 34, T3N, R4E.

**Location:** Hwy 385

**Purpose:** To give a lot to her daughter and keep remaining lots for other daughter and her own home (both existing residences)

**Zoning:** PF

**Conflicts of Interest:** None

Vogt described the area requested to be platted, and the history of the buildings on the property. Charlotte Cracco and Frank Dicesare, representing Arleth and Associates, explained the reasons for this request being the desire to provide a lot for a residence for a family member. Presently Mrs. Cracco and her daughter each has a house on the acreage, which were placed there under

different zoning regulations, and may remain as long as the use or structures do not change. Mrs. Cracco wishes an additional residence for another family member. The fire plan is done and Vogt was told by the Invasive Species Manager that a weed plan was not needed. The Board reiterated to Mrs. Cracco that the current residences on the property were ok as is, but if at anytime they wish to replace the existing mobile home, they would be required to bring this home into compliance with the rules at the time. One possibility being a Conditional Use Permit or possibly splitting each home its own lot by platting. The Board had no objection to this platting plan.

## **PUBLIC HEARINGS**

### **1. PUBLIC HEARING- CUP #382-COMMUNICATION TOWER (table per the applicant)**

**Owner/Representative:** Ryther/Quaschnick/Alltel Communications/Faulk & Foster

**Action Required:** Pull off table to then re-table until January 7, 2009)

**Shortened Legal Description:** Lot 5 in Section 11, T3N, R3E.

**Location:** Custer Peak Road off HWY 385 South

**Purpose:** Wireless Facility (Communication Tower)

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (Johnson-Coburn) to take from the table. Motion Carried.

Moved-Seconded (Coburn-O'Dea) to table the public hearing for CUP #382 until the January 7, 2010 meeting per the applicants request. Motion Carried.

### **2. PUBLIC HEARING- CUP #383 COMMUNICATION TOWER**

**Owner/Representative:** Thorstenson-Benson Limited Partnership/Alltel Communications/Faulk & Foster

**Action Required:** Pull off Table/Approval/Denial

**Shortened Legal Description:** Lot 6 except Highway Lots in Sections 15 & 22, T3N, R5E.

**Location:** Off Vanocker Canyon Road

**Purpose:** Wireless Facility (Communication Tower)

**Zoning:** PF

**Conflicts of Interest:** None

Moved-Seconded (Johnson-Coburn) to take from the table. Motion Carried.

The decision on this matter was tabled at the November meeting to allow time for an onsite inspection and acquire data for determining the location site. Ralph Wyngarden, representing Faulk & Foster, provided maps showing the coverage areas using different tower heights. The hearing had been closed at the last meeting, however, the Board agreed to allow additional public input.

**PROPOSERS:** Jan Kaberna stated she has been involved in three accidents in the Nemo area, and stated cell phone service is needed in the area for emergencies. Paul Doering, Molly Krahn, and Bonnie Hotchkiss also stated the need for cell service in the area for emergencies, safety, and convenience.

**OPPOSERS:** Jim Fettig stated he felt that other locations would work that would move the tower out of his sight. Gerald Pearson also does not want to look at it. Both gentleman stated

they were not against a tower in the area because they do understand the safety issues, but neither one of them wants to look at it.

APPLICANT: Wyngarden explained the location decision takes into account other towers positions to allow continuous coverage. The requested location and height represents the best coverage overall.

CLOSED PUBLIC HEARING

Moved-Seconded (Coburn-O’Dea) to recommend approval of CUP #383 with changes in conditions: #4. change tower description from monopole to self supporting lattice. #12 change wording regarding exterior lights on buildings to down-throw lighting. Motion Carried.

**3. RECOMMENDATION MEETING-VAR #126- Wayne Wanhanen**

**Owner/Representative:** Wayne Wanhanen/

**Action Required:** Recommendation to County Commissioners

**Legal Description:** Tract 0183 in Section 23-4-4

**Location:** Galena

**Purpose:** 12’ variance to 25’ front setback for a pole building.

**Zoning:** PF

**Conflicts of Interest:** None

Vogt explained the location and showed photos of the property. The lot is a long, narrow strip, adjacent to a large parcel also owned by the applicant. Because of floodplain and terrain issues, this site is best for the proposed pole building.

Moved-Seconded (Johnson-Coburn) to recommend approval of Variance #126. Aye: 3 Nay: O’Dea. Motion Carried.

**4. Opportunity for Public Comment:** None

**5. Items from Planning and Zoning Board Members:** None

Motion by Coburn to adjourn at 2:10 p.m.

APPROVED: \_\_\_\_\_  
Rick Tysdal, CHAIR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Craig Mickelson, SECRETARY